

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION HIGHWAYS

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1689.) The Governor's Office authorized the notice to proceed through the rulemaking process on August 9, 2011.

[R12-117]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**

R17-3-301	Amend
R17-3-302	Amend
R17-3-303	Amend
R17-3-304	Repeal
R17-3-305	Amend
R17-3-306	Repeal
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 28-366 and 28-7148
Implementing statute: A.R.S. §§ 28-7141 to 28-7149, 28-7152
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 17 A.A.R. 2422, December 2, 2011
- 4. The agency's contact person who can answer questions about the rulemaking:**

Name: Jane McVay
Address: Arizona Department of Transportation
Government Relations and Policy Development Office
206 S. 17th Ave., MD 140A
Phoenix, AZ 85007
Telephone: (602) 712-4279
Fax: (602) 712-3232
E-mail: jmconvay@azdot.gov
Web site: http://www.azdot.gov/Government_Relations/adotrules/
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters.
- 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The Arizona Department of Transportation (ADOT) is revising the relocation assistance rules by incorporating by reference the October 1, 2010 federal relocation assistance regulations in 49 CFR 24.1 et seq. These rules have not been updated since 2003. The rulemaking will also complete the course of action identified in a five-year review

report on relocation assistance approved by G.R.R.C. on January 5, 2010. ADOT administers relocation assistance in the state, which is based on the federal statutes, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, 42 U.S.C. 4601 et seq. ADOT has determined that this rulemaking will not address real property acquisition and utility relocation. A.R.S. § 28-7148 requires the ADOT Director to adopt rules to ensure that relocation payments and assistance to displaced persons due to transportation facility construction or reconstruction are administered in a fair, reasonable, and uniform manner. The rules also require a displaced person who makes proper application for an authorized payment to be paid promptly, or in a hardship case, paid in advance.

A.R.S. § 28-7141 contains primary definitions that relate to relocation assistance. ADOT, the displacing agency, is required under A.R.S. § 28-7142 to ensure that relocation assistance advisory services are made available to all persons displaced by the agency. These services include determining the needs and preferences of displaced persons, information on the availability and costs of comparable replacement dwellings for displaced persons and businesses, and services to minimize hardships of persons to adjust to relocation. Displaced persons or businesses that meet certain criteria are eligible to receive payment for actual reasonable moving expenses to reestablish a displaced farm or small business at a new site not to exceed \$10,000 under A.R.S. § 28-7143. A.R.S. § 28-7144 requires the displacing agency to pay no more than \$22,500 to a person displaced from a dwelling owned and occupied by a displaced person for at least 180 days before the initiation of negotiations to acquire the property. The Department is required under A.R.S. § 28-7145 to reimburse the property owner after payment is made for the property, for certain expenses the owner incurred for recording fees, transfer taxes, and a pro rata portion of real property taxes paid and allocated to a period after the date when the title was vested in the state. The Department is also required to pay to a displaced tenant who occupied a dwelling for at least 90 days, payment needed to enable the person to lease or rent a comparable replacement dwelling for no more than 42 months, not to exceed \$5,250. A.R.S. § 28-7147 allows a displaced person who is aggrieved by a determination of eligibility for a payment to have the ADOT Director review the person's application.

R17-3-301 incorporates numerous sections of the *Code of Federal Regulations* on relocation assistance and Appendix A to Subpart 24, Subparts A, C, D, and E, revised as of October 1, 2010, into the rules as the Department's rules, and indicates where a copy of the incorporated material may be obtained. R17-3-302 amends general provisions in 49 CFR 24, Subpart A, including 49 CFR 24.2 on definitions and acronyms, 49 CFR 24.5 on manner of notices, 49 CFR 24.9 on recordkeeping and reports, and 49 CFR 24.10 on appeals. The rules modify relocation assistance definitions and change the record retention period for displacement activities to at least three years after each property owner and displaced person receives a final payment. The record retention period for acquisition and displacement activity is changed to at least three years to comply with federal regulations and is no more stringent than federal regulations. The definition of business is deleted because the inclusion of a farm operation in the definition of a business conflicts with federal regulations. The rules modify the definition of decent, safe, and sanitary dwelling by providing that the dwelling must contain a cooling system capable of sustaining a healthful temperature for a displaced person. In addition, the rules modify the definition of "Uniform Act" by referring to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by 42 U.S.C. 4601 et seq., and as amended by A.R.S. § 28-7141 et seq., and these rules.

R17-3-303 amends various provisions in 49 CFR 24, Subpart C relating to general relocation requirements. R17-3-304 and R17-3-306 are repealed because the Department follows the corresponding federal regulations and no additional changes are needed. R17-3-305 contains requirements and limitations regarding the interest rate on a new mortgage and requires certain mortgage documents if a displaced person plans to buy down the interest rate.

6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not rely on or review any study for this rulemaking.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The relocation assistance program provides financial assistance and services to displaced persons and businesses that are relocated as a result of transportation facility construction and reconstruction. Displaced persons and businesses that receive relocation assistance from ADOT receive financial assistance and other services from this program to reestablish homes and businesses. The federal regulations and state statutes prescribe the maximum housing and moving expense payments that a displaced person or business may receive. In addition, the motoring public benefits from completed transportation projects that improve and expand the state transportation system. Construction projects enhance the state's economy by increasing jobs, expanding business, and increasing state and local tax revenue. The Department contracts with businesses for services provided through the relocation assistance program, which increases state and local tax revenue.

In calendar year 2011, ADOT spent about \$5.6 million for residential and business relocation, with 10% expended for residential relocation and the remainder for commercial relocation required due to displacement of businesses and individuals as a result of expansion and construction of transportation facilities. In addition, ADOT expended nearly \$4.9 million in calendar year 2011 for residential and commercial moving costs for 235 displaced persons and 20 businesses. The Department has a limited amount of funding to construct transportation programs and projects and provide relocation assistance to displaced persons and businesses. Due to funding and regulation limitations, displaced persons or businesses are likely to incur some relocation-related costs that are not payable under this program. The Department will also incur costs to complete this rulemaking.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Jane McVay
Address: Arizona Department of Transportation
Government Relations and Policy Development Office
206 S. 17th Ave., MD 140A
Phoenix, AZ 85007
Telephone: (602) 712-4279
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E-mail: jmcvay@azdot.gov

10. The time, place, and nature of the proceedings to make, amend, or renumber the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Date: August 27, 2012
Time: 1:30 p.m.
Location: Arizona Department of Transportation
Auditorium
206 S. 17th Ave.
Phoenix, AZ 85007
Nature: Oral Proceeding/Public Hearing

All oral and written comments should be directed to the person listed in item 4. Written and oral comments may be made to the contact and address listed in item 4 until 5:00 p.m. on August 27, 2012.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class or rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to questions (a) through (c):

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal laws regarding relocation assistance are located in 49 U.S.C. 4601 et seq. The administrative rules on relocation assistance are consistent with federal law and are no more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R. S. § 41-1028 and its location in the rules:

R17-3-301: 49 CFR 24.1 through 24.10, 49 CFR 24.201 through 24.209, 49 CFR 24.301 through 24.305, 49 CFR 24.401 through 24.404, 49 CFR 24.501 through 24.503, 49 CFR 24.601 through 24.603, and Appendix A to Part 24, Subpart A, Subpart C, Subpart D, and Subpart E, revised as of October 1, 2010.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 3. DEPARTMENT OF TRANSPORTATION
HIGHWAYS**

ARTICLE 3. RELOCATION ASSISTANCE

Section

- R17-3-301. Relocation Assistance; Adoption of Federal Regulations
- R17-3-302. Relocation Assistance; 49 CFR ~~Part~~ 24, Subpart A - General
- R17-3-303. Relocation Assistance; 49 CFR ~~Part~~ 24, Subpart C - General Relocation Requirements
- R17-3-304. Relocation Assistance; 49 CFR ~~Part~~ 24, Subpart ~~D~~ - Payments for Moving and Related Expenses Repealed
- R17-3-305. Relocation Assistance; 49 CFR ~~Part~~ 24, Subpart E - Replacement Housing Payments
- R17-3-306. Relocation Assistance; Appendix A to Part 24 Additional Information Repealed

ARTICLE 3. RELOCATION ASSISTANCE

R17-3-301. Relocation Assistance; Adoption of Federal Regulations

- A. ~~The Department incorporates by reference 49 CFR 24.2, 24.3, 24.5, 24.8, 24.9, 24.10, 24.202, 24.203, 24.204, 24.205, 24.206, 25.207, 24.208, 24.301, 24.302, 24.303, 24.304, 24.305, 24.306, 24.401, 24.402, 24.403, 24.404, 24.501, 24.502, 24.503, 24.504, 24.505, and Appendix A to Part 24 published October 1, 2001, and no later amendments or editions, as amended by R17-3-301 through R17-3-306. The incorporated material is on file with the Arizona Department of Transportation and the Office of Secretary of State. An unofficial version of the federal regulations is available at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>. The Department incorporates by reference 49 CFR 24.1 through 24.10, 49 CFR 24.201 through 209, 49 CFR 24.301 through 24.305, 49 CFR 24.401 through 24.404, 49 CFR 24.501 through 24.503, 49 CFR 24.601 through 24.603, and Appendix A to Part 24, Subpart A, Subpart C, Subpart D, and Subpart E, revised as of October 1, 2010, and no later amendments or editions, as amended by this Article. These sections apply to relocation assistance activity provided by the Department. The incorporated material is on file with the Arizona Department of Transportation and is available from the U.S. Government Printing Office, P. O. Box 979050, St. Louis, MO 63197-9000. The incorporated material can be ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>.~~
- B. The following definitions definition apply applies for the purpose of ~~R17-3-301 through R17-3-306~~ this Article unless indicated otherwise.
 - “Department” means the Arizona Department of Transportation.

R17-3-302. Relocation Assistance; 49 CFR ~~Part~~ 24, Subpart A - General

- A. 49 CFR 24.2, “Definitions~~2~~ and acronyms” is amended as follows:
 - 1. “Agency” means the Arizona Department of Transportation.
 - 2. “Business” is amended to read:
 - The term business means any lawful activity, including a farm operation, that is conducted:
 - 3. “Comparable replacement dwelling” is amended at paragraph (8)(i) to read:
 - A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days before initiation of negotiations (180-day homeowner) is considered to be within the homeowner’s financial means if the homeowner will receive the price differential as described in Sec. 24.401(e), all increased mortgage interest costs as described at Sec. 24.401(d) and all incidental expenses as described at Sec. 24.401(e), plus any additional amount required to be paid under Sec. 24.404, Replacement housing of last resort.
 - 4. “Contribute materially” is amended in paragraph (a)(7) to read:
 - The term “contribute materially” means that during the two taxable years before the taxable year in which displacement occurs, a business: contributed at least 33 1/3% of the owner’s or operator’s average annual gross income from all sources.
 - a. Contributed at least 33 1/3 percent of the owner’s or operator’s average annual gross income from all sources;
 - b. Registered and has a use permit from the local political subdivision, and
 - e. Submitted federal income tax returns for the last two years.
 - 5. “Decent, safe, and sanitary dwelling” is amended in paragraph (a)(8) to read:
 - The term decent, safe, and sanitary dwelling means a dwelling which meets applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply unless waived for good cause by the federal agency or state agency funding the project. The dwelling shall:
 - a. Be structurally sound, weathertight, and in good repair;
 - b. Contain a safe electrical wiring system adequate for lighting and other devices; and
 - e. Contain heating and cooling systems capable of sustaining a healthful temperature for a displaced person, except in those areas where local climatic conditions do not require such systems.
 - 6. “Displaced person” is amended to read:
 - a. General. The term “displaced person” means, except as provided in the definition of “persons not displaced,” any person who is required to move from the real property or moves his or her personal property from the real property as a direct result of the real property being acquired in whole or in part for an approved State project as a

result of a written notice of intent to acquire:

- i. This includes a person who occupies the real property before its acquisition but does not meet the length of occupancy requirements for relocation assistance other than reimbursement of moving expenses.
- ii. ~~Any person who does not meet the statutory occupancy requirements and is unable to obtain comparable replacement housing within the person's financial means is eligible for assistance only under Sections 24.401 and 24.402, as qualified by Section 24.404, in obtaining comparable, decent, safe, and sanitary housing.~~

b. "Persons not displaced" is amended as follows:

i. Amend paragraph (2)(i) to read:

~~A person who moves before the initiation of negotiations unless this requirement is waived by the Department due to a move necessitated for reasons beyond the person's control.~~

ii. ~~Delete paragraphs (2)(v), (2)(viii), (2)(ix), and (2)(x).~~

7. "Initiation of negotiations" is amended to have has the same meaning as prescribed in A.R.S. § 28-7141(8). A.R.S. § 28-7141.

8. "Notice of intent to acquire or notice of eligibility for relocation assistance" is amended to read:
Written notice furnished to a person to be displaced that establishes eligibility for relocation benefits before the initiation of ~~negotiation~~ negotiations.

9. "Owner of dwelling" is amended as follows:

~~Subsection (3) is deleted.~~

"Persons not displaced" is amended in paragraph (a)(9)(ii)(A) to read:

A person who moves before the initiation of negotiations unless this requirement is waived by the Department due to a move necessitated for reasons beyond the person's control.

10. "Program or project" is amended in paragraph (a)(22) to read:

The phrase "program" or "project" means any displacing activity or series of activities undertaken by the Department, related to construction or reconstruction of a transportation facility, or a facility necessary for maintaining a transportation facility.

11. "Salvage value" is deleted.

12. "State" is amended to read:

~~"State" means a state of the United States or the District of Columbia.~~

13. "Uneconomic remnant" is deleted.

14. "Uniform Act" is amended to read:

The term "Uniform Act" refers to A.R.S. § 28-7141 through 28-7156; and means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by 42 U.S.C. 4601 et seq., as amended by A.R.S. § 28-7141 et seq., and these rules.

15. "Unlawful occupancy" is amended to read:

A person is considered to be in unlawful occupancy if:

a. A court of competent jurisdiction has found the person guilty of forcible entry and detainer, or forcible detainer (under A.R.S. §§ 12-1171 through 12-1183) before the initiation of negotiations, or

b. The Department determines that the person is occupying the real property without the permission of the owner and has no legal right to occupy the property under state law.

16. "Utility costs" is amended to read:

The term "utility costs" means expenses for electrical, gas, water, and sewer.

17. "Utility facility" is deleted.

18. "Utility relocation" is deleted.

B. 49 CFR 24.5 "Manner of notices" is amended to read:

Each notice the ~~Agency~~ agency is required to provide to a property owner or occupant under this part shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in ~~Agency~~ agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person ~~who may be contacted~~ to contact for answers or other needed help.

C. 49 CFR 24.9 "Recordkeeping and reports" is amended ~~as follows:~~ to read:

1. Paragraph (a) Records. The ~~Agency~~ agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least ~~five~~ three years after each owner of a property and each person displaced from the property receives the final payment to which ~~he or she~~ each owner of property is entitled under this part, or in accordance with the applicable regulations of the federal funding agency, whichever is later.

~~2. Paragraph (c) is deleted.~~

D. 49 CFR 24.10 "Appeals" is amended to read:

In addition to the provisions of A.R.S. §§ 41-1061 through 41-1067, the following provisions apply:

Notices of Proposed Rulemaking

1. Actions which may be appealed. A person who believes the Department has failed to properly determine ~~properly~~ the person's eligibility for, or the amount of, a relocation payment; may file a written appeal. A person shall include all contested issues in one appeal.
 2. Process. To appeal, a person shall submit a letter stating name and address; and the reasons for disagreeing with the Department's decision to the Right-of-Way Group, Arizona Department of Transportation, 205 S. 17th Ave., MD 612E, Phoenix, AZ 85007-3212.
 3. Time limit. The person shall file the written appeal within 60 days after receiving notice of the Department's determination on the person's claim. The date the appeal request is received begins the official time limit constraints, as prescribed in subsections (D)(4) and ~~(D)(8)~~. (8) of this Section. Filing the appeal does not extend any eligibility periods or a required date to vacate a property.
 4. Hearing date. Within 45 days of ~~receiving~~ receipt of the appeal request, the Department shall set a mutually acceptable date for a hearing before a hearing officer.
 5. Review of files. ~~Upon~~ After making a written request to the Department at the address in subsection (D)(2); of this Section, the person may review and receive a copy of any non-confidential documentation contained in the Department's files regarding the person's appeal.
 6. Scope of review. The Department shall consider and review the person's arguments, statements, and documents in support of the appeal, allowing reasonable latitude for the hearing of relevant material.
 7. Right to representation. The person has a right to be represented by legal counsel or other representative in connection with the person's appeal, but solely at the person's own expense.
 8. Determination. Within 30 days of the hearing, the hearing officer shall make a recommendation to the Chief Right-of-Way Agent. The Department shall promptly issue a written decision and provide a copy to the person by certified mail. The Department shall explain the basis on which its decision was made, and what relief, if any, is to be provided.
 9. Judicial review. If the Department does not grant the relief requested, the Department shall advise the person of the right to seek judicial review.
- ~~E.~~ Conflict of interest. If a displaced person is an employee of the state, or of a political subdivision involved in a joint project with the displacing agency, the Department shall forward the displaced person's file to the Office of the Attorney General for settlement purposes and decision.
- ~~F.~~ The Department shall determine whether a person is required to relocate permanently as a direct result of a project.

R17-3-303. Relocation Assistance; 49 CFR ~~Part~~ 24, Subpart C - General Relocation Requirements

- ~~A.~~ 49 CFR 24.203(b) "Notices of relocation eligibility" is amended to read:
Notice of relocation eligibility. Eligibility for relocation assistance shall begin on the date of the notice of intent to acquire or notice of eligibility for relocation assistance (defined in Sec. 24.2) for the occupied property. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.
- ~~B.~~ 49 CFR 24.205 "Relocation planning, advisory services, and coordination" is amended as follows:
1. Paragraph (a) is amended to read:
Relocation planning. During the early stages of development, federal and federal aid programs or projects will be planned in a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. The planning, appropriate to the scope, complexity, and scheduling shall precede any action by an Agency which will cause displacement. The planning should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. If timing or scheduling is restricted, the planning may be limited. Planning may involve a relocation survey or study which may include the following:
 2. Paragraph (b) is deleted.
- ~~C.~~ 49 CFR 24.206 "Eviction for cause" is amended to read:
1. Eviction for cause must conform to A.R.S. §§ 12-1171 through 12-1183. The Department may determine that a person who is an unlawful occupant (as defined in 49 CFR 24.2) is still eligible for advisory relocation assistance, using the following factors:
 - a. The person received an eviction notice before the initiation of negotiations and, as a result of that notice is later evicted;
 - b. The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement;
 - c. The eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part;
 - d. The person occupying the property and the owner dispute the issue of lawful occupancy;
 - e. The duration of prior legal occupancy of the person occupying the property;
 - f. Financial or medical hardship of the person occupying the property; or

- g. The cost of the relocation assistance is less than the cost of an appeal.
2. For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available.
3. The state may initiate eviction proceedings due to:
 - a. Unlawful activities being conducted on state-owned property,
 - b. Willful destruction of state-owned property,
 - c. Refusal to vacate state-owned property after all required notices to vacate have been delivered and appropriate assistance provided, or
 - d. Failure to pay rent when there is no hardship.

R17-3-304. Relocation Assistance; 49 CFR Part 24, Subpart D Payments for Moving and Related Expenses Repealed

- A.** 49 CFR 24.301 "Payment for actual reasonable moving and related expenses residential moves" is amended as follows:
1. Paragraph (d) is amended to read:
Storage, if necessary to accommodate the Department's project schedule, for a period not to exceed 12 months.
 2. Paragraph (f) is deleted.
- B.** 49 CFR 24.303 "Payments for actual reasonable moving and related expenses nonresidential moves" is amended as follows:
1. Paragraphs (a)(7) and (a)(13)(iv) are deleted
 2. Paragraph (a)(8) is amended to read:
Professional services necessary for:
 - i. Planning the move of the personal property, when the Department approves in advance the quantity and type of planning;
 - ii. Moving the personal property, and
 - iii. Installing the relocated personal property at the replacement location.
 3. Paragraph (a)(10)(i) is amended to read:
The market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that the effort is not necessary. When payment for property loss is claimed for goods held for sale, the market value shall be based on the cost of the goods to the business, not the potential selling price.); or
 4. Paragraph (e) is amended to read:
Self moves. If the displaced person elects to take full responsibility for the move of the business or farm operation, the Agency may make a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the Agency. At the Agency's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate. The Agency has sole authority to determine, in the best interests of the Agency and the displaced business or farm operation, if a self-move will be permitted.
 5. Paragraph (e) is amended to read:
Advertising signs. The amount of a payment for direct loss of an on-premise advertising sign which is personal property shall be the lesser of:
 - a. (1)The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or
 - b. (2)The estimated cost of moving the sign, but with no allowance for storage.
- C.** 49 CFR 24.305(h) for "Ineligible moving and related expenses" is amended to read:
Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency, except as required under A.R.S. § 28-7153.

R17-3-305. Relocation Assistance; 49 CFR Part 24, Subpart E - Replacement Housing Payments

- A.** 49 CFR 24.401 "Replacement housing payment for 180-day homeowner-occupants" in paragraph (d)(3) is amended as follows: to read:
1. Paragraph (e)(4)(iii) is amended to read:
The current market value for residential use of the replacement site (see Appendix A of this part, Sec. 24.401(e)(4)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and
 2. Paragraph (d)(3) is amended to read:
The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located. If a displaced person chooses to buy down the interest rate, the Agency shall:
 - a.1. Require documents indicating the initial interest rate,
 - b.2. Require documents indicating the final interest rate, and
 - e.3. Limit reimbursement to the lower of the amount the displaced person actually paid or the amount qualified under the

Notices of Proposed Rulemaking

established market interest rate.

3. Paragraph (e)(1) is amended to read:

Closing and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

4. Paragraphs (e)(7) and (e)(8) are deleted.

- B.** 49 CFR 24.402 “Replacement housing payment for 90-day occupants” is amended as follows.

1. Paragraph (b)(2)(i) is amended to read:

The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency. (For an owner occupant, use the market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the market rent, unless its use would result in a hardship because of the person’s income or other circumstances); or

2. Paragraph (e)(1) is amended to read:

Amount of payment. An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling.

- C.** 49 CFR 24.403 “Additional rules governing replacement housing payments” is amended as follows.

1. Paragraph (a)(1) is amended to read:

At least one comparable replacement dwelling shall be examined. If more than one dwelling is examined, then the payment shall be computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, to the extent justified by local market data (see also Sec. 24.205(a)(2) and Appendix A of this part). An obviously overpriced dwelling will be ignored.

2. Paragraph (a)(3) is amended to read:

If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

3. Paragraph (e)(6) is amended to read:

Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current market value.

R17-3-306. Relocation Assistance; Appendix A to Part 24 – Additional Information Repealed

- A.** Appendix A, Section 24.9 “Recordkeeping and Reports” is deleted.

- B.** Appendix A, Subpart B “Real Property Acquisition” is deleted.

- C.** Appendix A, Section 24.204(a) “General” is amended to read:

This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, Sec. 24.204(a) requires that, “Where possible, three or more comparable replacement dwellings shall be made available.” Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

- D.** Appendix A, Section 24.307 “Discretionary Utility Relocation Payments” is deleted.

- E.** Appendix A, Section 24.401(e) “Price differential” is amended to read:

The provision in Sec. 24.401(e)(4)(iii) to use the current market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the market value may be used.

- F.** Appendix A, Section 24.402 “Replacement Housing Payment for 90-Day Occupants” is deleted.

- G.** Appendix A, Section 24.403 “Additional Rules Governing Replacement Housing Payments” Section 24.403(a)(1) is amended to read:

The procedure for adjusting the asking price of comparable replacement dwellings requires that the agency provide advisory assistance to the displaced person concerning negotiations so that he or she may enter the market as a knowledgeable buyer. If a displaced person elects to buy the selected comparable, but cannot acquire the property for the adjusted price, it is appropriate to increase the replacement housing payment to the actual purchase amount.