of this Report and Order are adopted. The amendments to 47 CFR 73.686 shall become effective upon date of publication of this Report and Order in the **Federal Register**.

94. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

**List of Subjects in 47 CFR Part 73**

Antenna, Measurement, Satellite, Signal, Television.

Federal Communications Commission.

**Shirley S. Suggs,**

*Chief, Publications Branch.*

**Rule Changes**

Part 73 of Title 47 of the Code of Federal Regulations is amended to read as follows:

## PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

2. Section 73.686 is amended by adding paragraph (d) to read as follows:

**§ 73.686 Field strength measurements.**

* * * * *

(d) Collection of field strength data to determine television signal intensity at an indvidual location—cluster measurements.

(1) *Preparation for measurements.*

(i) *Testing antenna.* The test antenna shall be a standard half-wave dipole tuned to the visual carrier frequency of channel being measured.

(ii) *Testing locations.* At the location, choose a minimum of five locations as close as possible to the specific site where the site's receiving antenna is located. If there is no receiving antenna at the site, choose the minimum of five locations as close as possible to a reasonable and likely spot for the antenna. The locations shall be at least three meters apart, enough so that the testing is practical. If possible, the first testing point should be chosen as the center point of a square whose corners are the four other locations. Calculate the median of the five measurements (in units of dBu) and report it as the measurement result.

(iv) *Multiple signals.* If more than one signal is being measured (i.e., signals from different transmitters), use the same locations to measure each signal.

(2) *Measurement procedure.* Measurements shall be made in accordance with good engineering practice and in accordance with this section of the Rules. At each measuring location, the following procedure shall be employed:

(i) *Testing equipment.* Measure the field strength of the visual carrier with a calibrated instrument with a bandwidth of at least 450 kHz, but no greater than one megahertz. Perform an on-site calibration of the instrument in accordance with the manufacturer's specifications. The instrument must accurately indicate the peak amplitude of the synchronizing signal. Take all measurements with a horizontally polarized dipole antenna. Use a shielded transmission line between the testing antenna and the field strength meter. Match the antenna impedance to the transmission line, and, if using an unbalanced line, employ a suitable balun. Take account of the transmission line loss for each frequency being measured.

(ii) *Weather.* Do not take measurements in inclement weather or when major weather fronts are moving through the measurement area.

(iii) *Antenna elevation.* When field strength is being measured for a one-story building, elevate the testing antenna to 6.1 meters (20 feet) above the ground. In situations where the field strength is being measured for a building taller than one-story, elevate the testing antenna 9.1 meters (30 feet) above the ground.

(iv) *Antenna orientation.* Orient the testing antenna in the direction which maximizes the value of field strength for the signal being measured. If more than one station's signal is being measured, orient the testing antenna separately for each station.

(3) Written Record shall be made and shall include at least the following:

(i) A list of calibrated equipment used in the field strength survey, which for each instrument, specifies the manufacturer, type, serial number and rated accuracy, and the date of the most recent calibration by the manufacturer or by a laboratory. Include complete details of any instrument not of standard manufacture.

(ii) A detailed description of the calibration of the measuring equipment, including field strength meters, measuring antenna, and connecting cable.

(iii) For each spot at the measuring site, all factors which may affect the recorded field, such as topography, height and types of vegetation, buildings, obstacles, weather, and other local features.

(iv) A description of where the cluster measurements were made.

(v) Time and date of the measurements and signature of the person making the measurements.

(vi) For each channel being measured, a list of the measured value of field strength (in units of dBu and after adjustment for line loss and antenna factor) of the five readings made during the cluster measurement process, with the median value highlighted.

[FR Doc. 99–3464 Filed 2–11–99; 8:45 am]

BILLING CODE 6712–01–P

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### 49 CFR Part 24

**[FHWA Docket No. FHWA–98–3379]**

**RIN 2125–AE34**

## Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements several amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), 42 U.S.C. 4601–4655, that were made by Public Law 105–117, enacted on November 21, 1997. Those amendments 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. A notice of proposed rulemaking (NPRM) concerning these amendments was published for comment on June 12, 1998.

**EFFECTIVE DATE:** This rule is effective March 15, 1999.

**FOR FURTHER INFORMATION CONTACT:** Marshall Schy, Office of Real Estate Services, HRE–10, (202) 366–2035; or Reid Alsop, Office of the Chief Counsel, HCC–31, (202) 366–1371, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:45 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

## Background

This regulation implements the amendments to the Uniform Act enacted on November 21, 1997, concerning the ineligibility of an alien not lawfully present in the United States for relocation payments and assistance under the Uniform Act. Background relating to the passage of these amendments and the FHWA's role as lead agency for the Uniform Act is discussed in some detail in the preamble to the NPRM published in the **Federal Register** on June 12, 1998 (63 FR 32175), and is not repeated here.

The Uniform Act is one of the Federal government's ''cross-cutting'' requirements, providing protections and benefits to persons whose real property is acquired or who are forced to move by Federal or federally-assisted programs or projects. Seventeen other Federal departments and agencies (including one, the Pennsylvania Avenue Development Corporation, which now is defunct) have adopted by reference the DOT governmentwide regulation implementing the Uniform Act found at 49 CFR 24. Title II of the Uniform Act deals with relocation assistance. The major purposes of Title II are to assure the fair and equitable treatment of persons displaced by Federal or federally-assisted programs or projects, and to ensure that such displaced persons ''shall not suffer disproportionate injuries as the result of programs and projects designed for the benefit of the public as a whole, and to minimize the hardship of displacement on such persons.'' Title II accomplishes this by providing for relocation advisory assistance and relocation payments to eligible displaced persons. Public Law 105–117 provides that aliens not lawfully present in the United States are not eligible to receive these benefits, except as discussed below.

In response to the NPRM, we received a total of 36 comments from eight separate commenters—four State highway agencies, three local agencies and one Federal agency. We thoroughly considered all these comments and made a number of changes to our original proposal before issuing the final rule.

This final rule seeks to implement Public Law 105–117 in a manner that minimizes the administrative and procedural burden on the thousands of persons displaced each year by Federal and federally-assisted programs or projects, as well as on the many Federal, State, and local agencies and private persons who implement the Uniform Act.

## Discussion of Comments

In the NPRM, we noted but did not propose the option of establishing more detailed requirements mandating such things as the documentation to be provided by each person to be displaced, the review procedures to be followed and the findings to be made by affected Federal, State, or local agencies. Several comments recommended that we require, or at least provide examples of, appropriate documentation or procedures in the final rule. Still other comments raised concerns about the administrative burden and potential discrimination consequences of requiring documentation and requested sample certification language. As we noted in the NPRM, one of our fundamental principles in developing this rule has been to avoid imposing significant administrative burdens in implementing the 1997 amendments to the Uniform Act. This is why the rule itself does not have specific documentation requirements, but allows the displacing agency to determine the need for documentation.

On the other hand, we have made it an equal, if not higher, priority that any such documentation requirements must be implemented in a nondiscriminatory manner. The final rule continues to allow displacing agencies to prescribe additional nondiscriminatory requirements concerning the certification. We continue to believe that the approach set forth in the final rule is adequate to prevent payment of relocation benefits in cases such as the one that gave rise to Public Law 105–117 (in which a person was considered by the displacing agency to be an illegal alien) without imposing substantial administrative burdens and costs on displaced persons or displacing agencies.

The rule requires that persons seeking relocation payments or assistance under the Uniform Act certify, as a condition of eligibility, that they are citizens or are otherwise lawfully present in the United States. The preamble to the NPRM indicated that displacing agencies could meet the certification requirement simply by making it part of a person's claim for relocation benefits (described in 49 CFR 24.207) and we have carried forward this approach in the final rule. We believe that requiring displacing agencies to obtain some type of certification from all persons who are to be displaced as the result of a Federal or federally-assisted program or project is necessary in order to comply with Public Law 105–117 and, at the same time, to avoid discrimination. It is our view that this rule provides a framework for so doing with a minimum of burden on displacing agencies and the affected public.

One commenter suggested that the issue of eligibility and residency status should be raised earlier in the relocation process to prevent surprises at a later, less correctable stage. We agree that the displacing agency should provide relevant information to potential displaced persons early in the relocation process, as part of the general [relocation] information notice (described in 49 CFR 24.203(a)), and we have inserted a new paragraph at 24.203(a)(4) to accomplish this purpose.

Other commenters asked what form the certification may take, what documentation should be required in support of it, what the nature of a displacing agency's review process should be, what findings an agency must make, what might constitute ''reason to believe'' a certification may be invalid, whether certain circumstances would require documentation for a certification, and who may sign it.

In keeping with our objective of minimizing prescriptive Federal requirements, we have not provided a particular form for the certification. As noted in the NPRM, we believe it would be acceptable for an agency to incorporate the certification into its existing claim forms (for example, by adding a group of boxes to be checked), if the agency determines that this approach is appropriate to its process. In regard to documentation standards, the nature of a displacing agency's review process, and the question of required findings we believe these are matters best left to the displacing agency to determine, except that all processes and criteria related to this rule must be nondiscriminatory.

Similarly, the determination of what constitutes ''reason to believe'' a certification may be invalid should be based on the judgment of the displacing agency, relying on the agency staff's contacts with the displaced person, their knowledge of the affected geographic area, contacts with neighbors and neighborhood institutions, and various other factors specific to each situation.

One commenter also raised the question of whether there are certain circumstances which would trigger a request for documentation. The commenter who raised this issue did not provide any examples of such circumstances and we have been unable to identify any. In particular, we question whether a policy which determined that a particular situation(s) always required documentation could be implemented in a truly nondiscriminatory manner. We continue to think that each case must be handled on an individual basis.

One commenter questioned who may sign the certification in the case of a family that is to be displaced. We believe that a head of household may sign the certification, just as a head of household may sign the claim form for a relocation payment, and have so provided in new section 24.208(a)(2). However, unlike an individual's certification, a head of household's certification also would certify as to the status of other family members. Agencies should design their certification materials to be sure they ask for a response appropriate to the displaced person's situation.

A parallel concern arises in dealing with nonresidential displacees. Several commenters asked if the prohibition on benefits in Public Law 105–117 applies to businesses. It seems clear that it does since the term ''person'' used in Public Law 105–117 is defined broadly in the Uniform Act so as to include businesses (as well as farms and nonprofit organizations). We believe the Congress intended to prevent the receipt of Uniform Act benefits by any alien not legally present in the U.S. and not meeting the exception requirements discussed below. We also believe that the prohibition on benefits must be applied differently to the differing ''ownership'' situations found in, for example, a sole proprietorship, a partnership, or a corporation. As in the case of residential displacees, we think the answer lies in looking at the nature of the entity to be displaced. Since a sole proprietorship involves only one person, the eligibility of the business is synonymous with the residency status of its proprietor. At the other end of the spectrum, it is our view that a corporation, as a legal person established pursuant to State law, need only certify that it is authorized to conduct business in the United States.

For partnerships or other associations that have more than one owner but which are not incorporated, we believe that the certification must be designed to elicit a response reflective of the status of all of the owners. Second, if any of the owners are not eligible, no relocation payments may be made to such persons. Last, any payments for which the business would otherwise be eligible should be reduced by a percentage based on the prorated shares of the ownership between eligible and ineligible owners. We have adopted a similar approach to mixed eligibility in residential situations and have added clarifying language in § 24.208(c) of the final rule.

Under this rule, a displacing agency may deny eligibility only if: (1) A person fails to provide the required certification; or (2) the agency determines that a person's certification is invalid, based on a fair and nondiscriminatory review of an alien's documentation or other information that the agency considers reliable and appropriate; and (3) the agency concludes that denial would not result in ''exceptional and extremely unusual hardship.'' [See following paragraph.]. Any person who is denied eligibility may utilize the existing appeals procedure, described in 49 CFR 24.10.

As we proposed in the NPRM, this rule requires that if the displacing agency, based on its review or on other credible evidence, believes that a displaced person's certification is invalid, it shall obtain further information before making a final determination to deny eligibility. If the displacing agency believes that a certification that an alien is lawfully present in the United States is invalid, it must obtain verification from the local office of the Immigration and Naturalization Service (INS) before making the determination final. [A **Federal Register** citation to a list of local INS offices is included in the final rule. However, if an agency is unable to obtain the address or telephone number of its local INS office, it may contact the FHWA in Washington, DC (Marshall Schy, Office of Real Estate Services, or Reid Alsop, Office of Chief Counsel) at 202–366–2035 or 202–366–1371, respectively.].

If the displacing agency believes that a certification that a person is a citizen of the United States is invalid, it must request further evidence of citizenship and verify such evidence, as appropriate.

One commenter asked if a failure to certify should result in a denial of Uniform Act benefits, without INS verification. If the displacing agency is satisfied that the failure to certify constitutes a refusal or inability to certify and is not merely an oversight, misunderstanding, or other mistake, it may deny benefits without INS verification.

Another commenter asked if the INS verification involved the SAVE (Systematic Alien Verification for Entitlements) system. The INS would determine the appropriate method of verification, which could include the use of the SAVE system.

Another commenter recommended that only the INS or the FHWA verify residency status. Only the INS has the authority to verify the status of aliens. We believe that the approach we proposed in the NPRM and have carried over to the final rule, where verification is provided by the INS when requested by the displacing agency, is the most efficient and effective way to meet the intent of the amendments while minimizing disruption to ongoing relocation programs. We anticipate that such verification should prove necessary in only a very limited number of cases.

As noted, Public Law 105–117 provides that relocation eligibility could be allowed, even if a person is not lawfully present in the United States, if the agency concludes that denial would result in ''exceptional and extremely unusual hardship'' to such person's spouse, parent, or child who is a citizen or is lawfully admitted for permanent residence in the United States.

The rule includes a definition of the phrase ''exceptional and extremely unusual hardship'' which focuses on significant and demonstrable impacts on health, safety, or family cohesion. Several commenters requested that we define this term more precisely, or provide further discussion concerning its application. We have retained the NPRM's definition in the final rule. This phrase is intended to allow judgment on the part of the displacing agency and does not lend itself to an absolute standard applicable in all situations. Commenters had several questions relating to this hardship exception, including to whom does it extend, what documentation is required to support a claim of hardship, what is a spouse, and a request for a definition of the term ''clear and convincing evidence [of hardship],'' as well as a recommendation that income level be a

factor in the consideration of ''hardship.''

We believe the amendments contemplate a standard of hardship involving more than the loss of relocation payments and/or assistance alone which, after all, is the basic result of the amendments. Thus, we do not agree that income alone (for example, measured as a percentage of income spent on housing, as suggested by one commenter) would make the denial of benefits a ''hardship'' exemption. [We recognize that identical hardship language is used in general immigration law, as one of the criteria for halting the removal of certain aliens (8 U.S.C. 1229b(b)(1)(D)). However, it appears that to date the INS has not provided guidance or standards for implementing this provision.].

We believe the amendments and the rule clearly indicate to whom the ''hardship exemption'' extends. When considering whether such an exemption is appropriate, a displacing agency may examine only the impact on an alien's spouse, parent, or child who is a citizen or lawful resident alien. In determining who is a spouse, we expect displacing agencies to use the definition of that term under State or other applicable law. In keeping with the principle of allowing displacing agencies maximum reasonable discretion, we believe the question of what documentation is required to support a claim of hardship is one best left to the displacing agency, as long as it is handled in a nondiscriminatory manner. The same principle applies to the term ''clear and convincing evidence [of hardship]'' found in the amendments.

Another commenter requested that we define the term ''citizen or national'' which we proposed as one of the residency statuses to which an applicant for Uniform Act benefits could certify. The word ''national'' was included in the NPRM to avoid excluding persons from certain U.S. possessions (American Samoa, for example) whose status is U.S. national, rather than U.S. citizen. To clarify this matter in the final rule, we have substituted the word ''citizen'' for the phrase ''citizen or national'' and have added a definition of ''citizen'' that includes nationals.

In the NPRM, we requested comments as to whether additional information or guidance should be included in the final rule concerning situations in which some, but not all, occupants of a dwelling are not lawfully present in the United States. Several commenters spoke to this issue requesting guidance or clarification. We believe that only eligible occupants should be considered in selecting comparable dwellings and computing replacement housing payments, and have so provided in new section 24.208(c). Thus, if several household members were not legally present in the U.S., a household which otherwise would require a comparable replacement dwelling with four bedrooms instead might be entitled to one with three bedrooms, with the replacement housing payment computed using the price/rent of the three bedroom comparable.

As noted in the preamble to the NPRM, most States have their own relocation statutes which enable State agencies to comply with the Uniform Act on programs or projects that receive Federal financial assistance. Those States should consider whether any changes to State law or regulations are necessary to comply with Public Law 105–117.

One commenter requested that we provide standards for the potential loss of Federal funding which might occur as a result of failure to comply with the requirements of Public Law 105–117 on projects receiving Federal financial assistance. As noted in the NPRM, while we do not believe that Public Law 105–117 preempts the provisions of State relocation statutes, it is our position that, on federally-assisted programs or projects, Federal funds could no longer participate in the costs of any relocation payments or assistance that are not consistent with the provisions of Public Law 105–117 and this rule.

Finally, this rule makes two technical changes to 49 CFR 24.2 unrelated to Public Law 105–117. First, it eliminates the paragraph designations in the alphabetized list of definitions contained therein, to reflect current drafting policies of the Office of the Federal Register. Second, it modifies the definition of ''State'' to delete the outdated reference to the Trust Territories of the Pacific Islands.

## Cross References

Title 49, part 24, of the Code of Federal Regulations (CFR) constitutes the governmentwide regulation implementing the Uniform Act. The regulations and directives of many other Federal departments and agencies contain a cross reference to this part in their regulations, and the change in this rulemaking is directly applicable to the relocation assistance activities of these departments and agencies. The changes also apply to other agencies within DOT that are covered by the Uniform Act. The parts of the CFR which contain a cross reference to this part, are listed below:

Department of Agriculture, 7 CFR part 21
Department of Commerce, 15 CFR part 11
Department of Defense, 32 CFR part 259
Department of Education, 34 CFR part 15
Department of Energy, 10 CFR part 1039
Environmental Protection Agency, 40 CFR part 4
Federal Emergency Management Agency, 44 CFR part 25
General Services Administration, 41CFR part 105–51
Department of Health and Human Services, 45 CFR part 15
Department of Housing and Urban Development, 24 CFR part 42
Department of the Interior, 41 CFR part 114–50
Department of Justice, 41 CFR part 128–18
Department of Labor, 29 CFR part 12
National Aeronautics and Space Administration, 14 CFR part 1208
Tennessee Valley Authority, 18 CFR part 1306
Veterans Administration, 38 CFR part 25

## Rulemaking Analyses and Notices

### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, nor is it a significant regulatory action within the Department of Transportation's regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The FHWA does not consider this action to be a significant regulatory action because the amendments would merely update existing regulations so that they are consistent with Public Law 105–117. By this rulemaking, the agency merely implements several amendments to the Uniform Act to ensure that aliens not lawfully present in the United States are ineligible for relocation benefits or assistance. In an effort to protect other occupants of a dwelling, however, this rule allows the displacing agency to grant relocation eligibility if the agency concludes that denial would result in ''exceptional and extremely unusual hardship'' to such person's spouse, parent, or child who is a citizen or is lawfully admitted for permanent residence in the United States. Neither the individual nor cumulative impact of this action are significant because this rule does not alter the funding levels available in Federal or federally assisted programs covered by the Uniform Act. The rule merely prevents payment of

relocation benefits in cases where the displacing agency determines a person to be in this country unlawfully.

*Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this rule on small entities and hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This action merely updates and clarifies existing procedures used by displacing agencies so as to prevent the payment of relocation benefits to aliens who are in this country unlawfully, in accordance with Public Law 105–117.

*Environmental Impacts*

The FHWA has also analyzed this action for the purpose of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and has determined that this action does not have any effect on the quality of the human environment.

*Executive Order 12612 (Federalism Assessment)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Pub. L. 105–117 discourages State and local governments from providing relocation benefits under the Uniform Act to persons who are not lawfully present in the United States (unless certain hardships would result) by denying the participation of Federal funds in any such benefits. The FHWA expects this to affect only a relatively small percentage of all persons covered by the Uniform Act. Further, this rule implements the requirements of Pub. L. 105–117 in a way that will keep administrative burdens to a minimum.

**Unfunded Mandates Reform Act of 1995**

This rule does not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. (2 U.S.C. 1532).

**Paperwork Reduction Act**

This rule contains new collection of information requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. The new collection of information is mandated by section 1 of Public Law 105–117, 111 Stat. 2384, and this rule seeks to minimize such collection requirements.

This rule adds additional information collection requirements to the Office of Management and Budget (OMB) approved information collection budget for OMB control number 2105–0508. Displacing agencies will require each person who is to be displaced by a Federal or federally-assisted project, as a condition of eligibility for relocation payments or advisory assistance, to certify that he or she is lawfully present in the United States. This certification could normally be provided as a part of the existing relocation claim documentation used by displacing agencies.

The FHWA estimates that during 1997 there were approximately 6,500 persons displaced as a result of DOT programs or projects. Since the FHWA believes that each displaced person should know whether he/she is a citizen or is lawfully present in the United States, the FHWA estimates that the certification would take no more than 10 seconds per person.

Accordingly, the FHWA estimates the public recordkeeping burden [required as a result] of this collection of information to be 17 hours for each year of implementation.

The U.S. DOT has determined that the increase in the FHWA's public recordkeeping burden for this collection of information is minimal. Thus, the Department will submit to the OMB updated numbers for this increase in our collection of information budget under the current control number 2105–0508.

**Regulation Identification Number**

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects in 49 CFR Part 24**

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements, Transportation.

In accordance with the foregoing, the FHWA amends part 24 of title 49, Code of Federal Regulations, as set forth below.

## PART 24—[AMENDED]

1. The authority citation for 49 CFR part 24 continues to read as follows:

**Authority:** 42 U.S.C. 4601 *et seq.*; 49 CFR 1.48(cc).

2. Section 24.2 is amended by removing the alphabetical paragraph designations from all definitions; by adding two new terms *Alien not lawfully present in the United States* and *Citizen;* by revising paragraph (1) introductory text of the definition of *Displaced person* and adding paragraph (2)(xii); by revising the definition of *State;* and by placing all definitions in alphabetical order to read as follows:

**§ 24.2 Definitions.**

* * * * *

*Alien not lawfully present in the United States.* The phrase ''alien not lawfully present in the United States'' means an alien who is not ''lawfully present'' in the United States as defined in 8 CFR 103.12 and includes:

(1) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act and whose stay in the United States has not been authorized by the United States Attorney General, and

(2) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

* * * * *

*Citizen.* The term ''citizen,'' for purposes of this part, includes both citizens of the United States and noncitizen nationals.

* * * * *

*Displaced person.*

(1) *General.* The term ''displaced person'' means, except as provided in paragraph (2) of this definition, any person who moves from the real property or moves his or her personal property from the real property: (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at §§ 24.401(a) and 24.402(a)):

* * * * *

(2) * * *

(xii) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation benefits in accordance with § 24.208.

* * * * *

*State.* Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the

United States, or a political subdivision of any of these jurisdictions.

* * * * *

3. In part 24, in the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the word or words indicated in the right column:

| Section | Remove | Add |
|---|---|---|
| 24.102(k) | 24.2(w) | 24.2 |
| 24.103(c) | 24.2(s) | 24.2 |
| 24.105(c) | 24.2(s) | 24.2 |
| 24.202 | 24.2(g) | 24.2 |
| 24.203(b) | 24.2(k) | 24.2 |
| 24.204(a) | 24.2(d) | 24.2 |
| 24.205(c)(2)(ii)(B) | 24.2(d) and (f) | 24.2 |
| 24.301 intro paragraph | 24.2(g) | 24.2 |
| 24.303(a) | 24.2(g) | 24.2 |
| 24.304 intro paragraph | 24.2(t) | 24.2 |
| 24.306(a)(6) | 24.2(e) | 24.2 |
| 24.306(c) | 24.2(i) | 24.2 |
| 24.307(a) | 24.2(aa) and (bb) | 24.2 |
| 24.401(c)(4)(ii) | 24.2(f) | 24.2 |
| 24.403(a) | 24.2(d) | 24.2 |
| 24.403(b) | 24.2(f) | 24.2 |
| 24.404(c)(2) | 24.2(d)(2) | 24.2 |
| Appendix A under the heading of Section 24.2 Definitions: | | |
| First Parag. | Section 24.2(d)(2) | Removed. |
| | § 24.2(d)(2) | 24.2 |
| Fourth Para. | Section 24.2(d)(7) | Paragraph (7) in the definition of *comparable replacement dwelling.* |
| Seventh Para. | Section 24.2(g)(2) | Removed. |
| Seventh Para. | Section 24.2(g)(2)(iv) | Paragraph (2)(iv) under this definition. |
| Ninth Para. | Section 24.2(k) | Removed. |
| Appendix A under the heading of Section 24.404 Replacement Housing of Last Resort: | | |
| First Para. | 24.2(p) | 24.2 |

4. Part 24 is amended by redesignating § 24.203(a)(4) as § 24.203(a)(5) and by adding a new § 24.203(a)(4) to read as follows:

**§ 24.203 Relocation notices.**

(a) * * *

(4) Informs the person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in § 24.208(i).

* * * * *

5. Part 24 is amended by redesignating § 24.208 as § 24.209 and by adding a new § 24.208 to read as follows:

**§ 24.208 Aliens not lawfully present in the United States.**

(a) Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

(1) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

(2) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.

(3) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.

(4) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the United States.

(b) The certification provided pursuant to paragraphs (a)(1), (a)(2), and (a)(3) of this section shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this rule shall be within the discretion of the Federal funding agency and, within those parameters, that of the displacing agency.

(c) In computing relocation payments under the Uniform Act, if any member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to him or her. Any payment(s) for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

(d) The displacing agency shall consider the certification provided pursuant to paragraph (a) of this section to be valid, unless the displacing agency determines in accordance with paragraph (f) of this section that it is invalid based on a review of an alien's documentation or other information that the agency considers reliable and appropriate.

(e) Any review by the displacing agency of the certifications provided pursuant to paragraph (a) of this section shall be conducted in a nondiscriminatory fashion. Each displacing agency will apply the same standard of review to all such certifications it receives, except that

such standard may be revised periodically.

(f) If, based on a review of an alien's documentation or other credible evidence, a displacing agency has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination.

(1) If the agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing agency shall obtain verification of the alien's status from the local Immigration and Naturalization Service (INS) Office. A list of local INS offices was published in the **Federal Register** in November 17, 1997 at 62 FR 61350. Any request for INS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation. [If an agency is unable to contact the INS, it may contact the FHWA in Washington, DC at 202–366–2035 (Marshall Schy, Office of Real Estate Services) or 202–366–1371 (Reid Alsop, Office of Chief Counsel), for a referral to the INS.]

(2) If the agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

(g) No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the displacing agency's satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States.

(h) For purposes of paragraph (g) of this section, ''exceptional and extremely unusual hardship'' to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

(1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;

(2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or

(3) Any other impact that the displacing agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

(i) The certification referred to in paragraph (a) of this section may be included as part of the claim for relocation payments described in § 24.207 of this part.

(Approved by the Office of Management and Budget under control number 2105–0508)

Issued on: February 3, 1999.

**Gloria J. Jeff,**

*Deputy Administrator, Federal Highway Administration.*

[FR Doc. 99–3205 Filed 2–11–99; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Railroad Administration

## 49 CFR Part 268

**[FRA Docket No. FRA–95–4545; Notice No. 2]**

**RIN 2130–AB29**

## Magnetic Levitation Transportation Technology Development Program

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Amendment to the interim final rule.

**SUMMARY:** FRA published an Interim Final Rule with request for comments on October 13, 1998 (63 FR 54600), implementing the Magnetic Levitation Technology Deployment Program. The Interim Final Rule established a deadline of December 31, 1998, for the submission of application packages for preconstruction planning assistance, and set out a schedule for other actions flowing from the submission of application packages. This Amendment to the Interim Final Rule extends the deadline for the submission of application packages to February 15, 1999, and makes other adjustments to various dates which flow from that extension of time.

**EFFECTIVE DATE:** This Amendment to the Interim Final Rule is effective February 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Neil E. Moyer, Chief—Program Development Division, FRA, 1120 Vermont Ave., NW, Washington, DC 20590 (telephone 202–493–6365; E-mail address: *Neil.Moyer@fra.dot.gov*), or Gareth Rosenau, Attorney, Office of Chief Counsel, FRA, 1120 Vermont Ave., NW, Mailstop 10, Washington, DC 20590 (telephone 202–493–6054; E-mail address: Gareth.Rosenau@fra.dot.gov).

**SUPPLEMENTARY INFORMATION:** Citing the extensive and comprehensive information required to be submitted, several potential applicants expressed an interest in an extension of the deadline for receipt of applications for maglev preconstruction planning grants. In response, on December 22, 1998, FRA extended the deadline from December 31, 1998, to February 15, 1999. All known potential applicants were contacted by telephone and were notified of the change. A memorandum advising all known interested parties of the change was also mailed at the same time.

Formal comments to the docket concerning the Interim Final Rule will be discussed upon publication of the Final Rule. None of the formal comments to the docket concerned the extension of the deadline for maglev preconstruction planning grants, or other dates, being modified by this Amendment No. 1.

### Regulatory Analyses and Notices

This Amendment to the Interim Final Rule merely extends the deadline for application packages for preconstruction planning assistance from December 31, 1998, to February 15, 1999, and adds one month to all subsequent milestones listed in § 268.3. There are no other changes to the Interim Final Rule. Declarations with respect to various regulatory requirements were contained in the Interim Final Rule. By this Amendment, those declarations with respect to various regulatory requirements are incorporated herein by reference, and it is stated that there are no other modifications required to those declarations by virtue of the action taken in this Amendment.

### List of subjects in 49 CFR Part 268

Grant programs-transportation, High speed ground transportation, Maglev, Magnetic levitation.

### The Rule

In consideration of the foregoing, FRA amends part 268 title 49 of the Code of Federal Regulations as set forth below:

## PART 268—[AMENDED]

1. The authority citation for part 268 continues to read as follows: