

§41.6

24 CFR 40.6; the circumstances under which the building of facility was designed, constructed or altered; and other factors relevant to a determination as to whether there has been non-compliance with this part.

(e) *Resolution of matters.* (1) If any examination, inspection, periodic compliance review, complaint, or investigation pursuant to this section indicates a failure to comply with the applicable standards or requirements, the Secretary shall attempt to gain voluntary compliance whenever possible.

(2) If it has been determined that voluntary compliance cannot be achieved, the Secretary shall refer the matter to the appropriate Assistant Secretary for action pursuant to his or her program authority regarding the residential structure or other building or facility under investigation, to achieve compliance with the requirements subject to this part. The Assistant Secretary shall report to the Secretary within 30 days of the date of such referral regarding the action taken and the schedule and means of achieving compliance, except that the Secretary may specify a shorter or longer reporting period, as deemed appropriate.

(f) *Disposition of unresolved complaints.* Unresolved complaints shall be referred to the Architectural and Transportation Barriers Compliance Board to be processed in accordance with 36 CFR part 1150. A complaint shall be deemed unresolved if it is not resolved within 90 days of the date of the filing of the complaint with the Department.

(g) *Compliance action by other individuals.* Individuals other than the Secretary may receive complaints and undertake other appropriate actions to achieve compliance with requirements subject to this part, so long as initial notification of such complaints or proposed actions is given both to the Secretary and the appropriate Assistant Secretary.

§41.6 Matters involving the Architectural and Transportation Barriers Compliance Board.

(a) *Complaints.* With respect to any complaint referred to the responsible Department Official by the Architectural and Transportation Barriers Compliance Board (A&TBCB), the pro-

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cedures set forth in this part shall apply. In such a case, the Secretary shall coordinate all investigations and/or other compliance actions to assure that the Department resolves any architectural barriers deficiencies so as to respond to the A&TBCB within its required 60-day period set forth at 36 CFR 1150.41 for the informal resolution of complaints.

(b) *Citations.* The Office of General Counsel shall, with the assistance of the appropriate Assistant Secretary, respond to any citation issued by the A&TBCB to the Department alleging noncompliance with the standards issued pursuant to the Architectural Barriers Act of 1968, as amended. The applicable procedures regarding such a citation are set forth at 36 CFR part 1150.

PART 42—DISPLACEMENT, RELOCATION ASSISTANCE, AND REAL PROPERTY ACQUISITION FOR HUD AND HUD-ASSISTED PROGRAMS

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AUTHORITY: 42 U.S.C. 3535(d), 4601, 5304, and 12705(b).

SOURCE: 61 FR 51757, Oct. 3, 1996, unless otherwise noted.

Subpart A—General

§42.1 Applicable rules.

(a) *URA.* HUD-assisted programs and projects are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42

U.S.C. 4601 (URA) (42 U.S.C. 4601), and implementing regulations issued by the Department of Transportation at 49 CFR part 24.

(b) *Section 104(d)*. In addition to the URA, the Community Development Block Grant (CDBG), Urban Development Action Grant (UDAG), and HOME Investment Partnerships (HOME) programs are also subject to section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)). The provisions applicable to these programs are set out in subpart C of this part.

(c) *Additional requirements*. Applicable program regulations may contain additional relocation provisions.

Subpart B [Reserved]

Subpart C—Requirements Under Section 104(d) of Housing and Community Development Act of 1974

§ 42.301 Applicability.

This subpart applies only to CDBG grants under 24 CFR part 570, subparts D, F, and I (Entitlement grants, HUD-Administered Small Cities, and State programs); grants under 24 CFR part 570, subpart G (Urban Development Action Grants), and Loan Guarantees under 24 CFR part 570, subpart M; and assistance to State and local governments under 24 CFR part 92 (HOME program).

§ 42.305 Definitions.

The terms *Fair Market Rent (FMR)*, *HUD*, *Section 8*, and *Uniform Relocation Act (URA)* are defined in part 5 of this title. Otherwise, as used in this subpart:

Comparable replacement dwelling unit means a dwelling unit that:

(1) Meets the criteria of 49 CFR 24.2(d)(1) through (6); and

(2) Is available at a monthly cost for rent plus estimated average monthly utility costs that does not exceed the “Total Tenant Payment” determined under § 813.107 of this title, after taking into account any rental assistance the household would receive.

Conversion. (1) This term means altering a housing unit so that it is:

(i) Used for nonhousing purposes;

(ii) Used for housing purposes, but no longer meets the definition of lower-income dwelling unit; or

(iii) Used as an emergency shelter.

(2) A housing unit that continues to be used for housing after completion of the project is not considered a “conversion” if, upon completion of the project, the unit is owned and occupied by a person who owned and occupied the unit before the project.

Displaced person means a lower-income person who, in connection with an activity assisted under any program subject to this subpart, permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling. For purposes of this definition, a permanent move includes a move made permanently and:

(1) After notice by the grantee to move from the property following initial submission to HUD of the consolidated plan required of entitlement grantees pursuant to § 570.302; of an application for assistance pursuant to §§ 570.426, 570.430, or 570.465 that is thereafter approved; or an application for loan assistance under § 570.701 that is thereafter approved;

(2) After notice by the property owner to move from the property, following the submission of a request for financial assistance by the property owner (or other person in control of the site) that is thereafter approved; or

(3) Before the dates described in this definition, if HUD or the grantee determine that the displacement was a direct result of conversion or demolition in connection with an activity subject to this subpart for which financial assistance has been requested and is thereafter approved.

HCD Act of 1974 means the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

Lower-income dwelling unit means a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing established under 24 CFR part 888.

Lower-income person means, as appropriate, a “low and moderate income person” as that term is defined in