

Property of  
Flood Control District of MC Library  
Please Return to  
2801 W. Durango  
Phoenix, AZ 85009

# SCS RESPONSIBILITIES

000.603

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Flood Control District of MC Library  
Please Return to  
2801 W. Durango  
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§ 104I-70.701 General.

The state conservationist is responsible for the overall direction of SCS activities involving landrights. This includes determining by periodic inspection or otherwise, that the acquiring agency is complying with the policies and procedures prescribed in this part, Public Law 91-646, and Department regulations, and the assurance contained in the program agreement.

§ 104I-70.702 Assistance to acquiring agency.

Authorized technical assistance which SCS may provide the acquiring agency in connection with its landrights activities consists of information with respect to the program, the project, and requirements of SCS, as well as data relating to the works of improvement to be installed. Giving timely and thorough information and data to the acquiring agency makes it possible for it to plan and execute its landrights acquisition program with a minimum of difficulty. This can also result in a lessening of the SCS workload associated with review of the landrights acquired.

§ 104I-70.702-1 Instruction on responsibilities and requirements.

SCS shall acquaint the acquiring agency with its responsibilities and SCS requirements in acquiring landrights.

(a) The state conservationist must inform the sponsor of its responsibilities in the acquisition of landrights at the time planning assistance is requested.

(1) The initial information should include such things as SCS requirements, technical assistance available from SCS, availability of SCS employees to assist the acquiring agency in understanding landrights requirements when acquisition is undertaken, and responsibilities of the acquiring agency as set forth in program handbooks.

(2) The acquiring agency is not in a position to initiate a landrights acquisition program until it is informed of the landrights that will be required. The landrights work map (§ 104I-70.704) is to be provided to serve this purpose. Program handbooks provide guidance as to when the landrights work map should be furnished the acquiring agency.

(3) The landrights program should be discussed in detail with the acquiring agency at an appropriate time consistent with but not later than when it receives the landrights work map. It is then in position to plan, schedule, and initiate an aggressive acquisition program keyed to the plans for the project.

(4) Project agreements contain a provision for the sponsor to accept full financial and any other responsibility for any excess installation costs resulting from its failure to obtain adequate landrights. This should be stressed to the acquiring agency to stimulate its assurance that adequate landrights are obtained, checked, and properly recorded, and to focus its attention on the need for qualified legal counsel in these matters.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.703

§ 104I-70.703 State administrative officer responsibilities.

The SAO is responsible for seeing that all needed landrights have been acquired, recorded (permits excepted), and are certified on Form SCS-AS-78 by the acquiring agency as adequate, legal and in compliance with SCS regulations before Federal financial assistance is made available for the construction or installation of works of improvement.

(a) In carrying out these responsibilities, the SAO must check certain features of the landrights instruments. Any questions of a legal nature on which assistance is needed should be cleared with the appropriate field attorney of the Office of the General Counsel. When both legal and policy or procedural questions are involved, they should be referred to the Administrative Services Division.

(b) If the certification on Form SCS-AS-78 includes certification by an attorney as to the adequacy and legality of the landrights, the SAO may limit his review of the landrights documents to the following features:

(1) The landrights instruments used by the acquiring agency are in the form previously approved by the SAO, and when applicable, by the State director of the FmHA.

(2) The works of improvement are properly described.

(3) The interest acquired or permission obtained is adequate for the purpose needed.

(4) The estimated acreage for each ownership is approximately right.

(5) Special provisions are in accord with SCS policy.

(6) Arrangements have been made by the acquiring agency to take care of additional landrights costs that may be created by special provisions.

(7) SCS has provided in the plans and specifications for any special provisions that affect the installation of the works of improvement.

(8) All interests in needed landrights are covered by landrights instruments which meet SCS requirements.

(9) SCS requirements have been met where flooding is involved.

(10) The instruments run to one or more of the sponsors, preferably the ones to operate and maintain the works of improvement. When an FmHA loan is involved, it must run to the borrowing sponsor who will operate and maintain the works of improvement. (The landrights also may run to additional sponsors.)

§ 104I-70.605 Straightening taking lines.

If, as a result of the requirement of a policy or guideline provision of a program handbook, a taking line is described by giving an elevation line, such line may be straightened to a more realistic taking line provided the spirit and intent of the basic policy or guideline is not violated.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.604-2

§ 104I-70.604-2 SCS payments for Group A landrights.

(a) The basic document for Group A landrights is the landrights agreement. This agreement is to be amended before making a payment to the acquiring agency if there is a change in acreage or a price increase in a Group A landright.

(b) Requests for payment shall be on SF-270. To support the data included in the request and for certifying purposes, SCS is to complete Form SCS-AS-58A. See Exhibit 104I-70.114. This form is a listing of the tracts, agreed-to acreages and values, the purchase prices, and financial assistance available. The eligible financial assistance is either the agreed-to value or the purchase price, whichever is the lesser. Two columns are provided under Federal financial assistance to accommodate instances involving Federal funds from other Federal sources as well as funds from SCS. Form SCS-AS-58A shall be prepared to cover the same period of time as covered by the SF-270. SF-270 should be prepared in not less than three copies by the acquiring agency. The original and one copy are to be furnished to SCS. When the SAO has verified and approved the payment request, the original is to be attached to the voucher schedule along with Form SCS-AS-58A. A copy of SF-270 and SCS-AS-58A are to be retained in the related landrights agreement file. Papers such as title evidence and payment receipts supporting the payment request will be retained by the acquiring agency.

(c) Payment requests with an uneconomic remnant included shall have the following comment in the remarks block: "The amount requested includes payment in the amount of \$ \_\_\_\_\_ for (an) uneconomic remnant(s) consisting of \_\_\_\_\_ acres acquired in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646)."

(d) Payment requests should be numbered consecutively beginning with number 1. The last payment request should be marked "Final."

(e) The request will be submitted by the acquiring agency and payment made in the name of and to the acquiring agency. If the acquiring agency and one or more other sponsors are named as grantees, all of the grantees must join in submission of the payment request. The payment must be made to all of the grantees. Only one check will be issued for each payment request. If two or more acquiring agencies acquire the landrights in their own name, separate payment requests should be made. This requires that the acquiring agency and any other sponsor named as grantee in a landrights instrument must be a party to the landrights agreement. The SCS financial assistance for a tract of land with an interest outstanding in a third party on which a subordination agreement is required shall not be paid until the subordination agreement is obtained. The same is true if there is a removal, relocation, or modification of existing facilities, unless the work has been accomplished or there is a firm written agreement for carrying out the work.

§ 104I-70.604-3 In-kind contribution credit.

Application of credit identified as Group C, In-kind Contributions can be made on a request for payment associated with the landrights agreement, relocation agreement, project agreement associated with Group B landrights costs, or project agreements with eligible local costs.

SUBPART 104I-70.6 FINANCIAL ASSISTANCE ON LANDRIGHTS

104I-70.604-1(d)(3)

and Corps of Engineers. Subject to the approval of the Federal agency providing the service, the arrangement may take the form of an agreement or an exchange of letters.

§ 104I-70.604 Payment of SCS financial assistance.

§ 104I-70.604-1 Timing of payments.

(a) SCS prefers that the acquiring agency make the necessary arrangements to pay for the landrights prior to requesting SCS for its assistance.

(b) There may be instances, however, where the acquiring agency does not have or cannot make arrangements for sufficient money and will request SCS to make the money available at the time of the closing of the cases or make progressive payments as acquisitions are made.

(c) Progressive payments to assist in acquiring landrights may be made to the acquiring agency provided (i) it has the power of eminent domain and (ii) agrees in the landrights agreement to use such power for acquisitions that cannot be obtained by donation, land exchange, or after reasonable and expeditious negotiations for purchase. It is not the intent that the acquiring agency will make a separate request for each acquisition. A request may cover several acquisitions. If the acquiring agency does not have the power of eminent domain or will not agree to use it, all acquisitions required for the site(s) covered by the landrights agreement must be completed or ready for closing before requesting SCS to provide financial assistance.

(d) If the acquiring agency does not have the money or cannot make arrangements for it, SCS may honor a request for payment at the time of closing provided the check is made payable to the acquiring agency but delivered to SCS by the Disbursing Officer. A representative of the field office of the Office of the General Counsel should attend the closing. Concurrent with delivery of the check to the acquiring agency, these actions must be taken.

(1) County records searched to determine that:

(i) The property has not been conveyed to another party,

(ii) No interest has been conveyed to a third party, and

(iii) No mortgage or other liens have been filed since the last previous check of the records.

(2) Payment made to the grantor.

(3) The landrights instruments recorded.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.603(b)(4)

the SCS may provide financial assistance only on the agreed-to FMV and the acquiring agency must pay the excess cost.

(5) Uneconomic remnants acquired with other eligible landrights. These may not have been identified in the measure or project plan. These are to be added by amendment to the landrights agreement.

(c) For Group B Items as described in § 104I-70.602-3:

The cost established in or resulting from a project agreement or an agreement for engineering services.

(d) For Group C items as described in 104I-70.602-3:

For both (1) and (2) below, that percentage which represents SCS assistance on landrights costs is to be identified as a credit available for application against expenses incurred for public fish and wildlife and/or recreation purposes in the installation of the project.

(1) For land held in fee title prior to the project authorization date designated in the program handbook, the original acquisition cost incurred must be incorporated in the landrights agreement as an agreed-to value. This value must be documented from acquiring agency files.

(2) For land received by donation in fee title the appraised value at the time of donation must be incorporated in the landrights agreement. Any consideration paid for the donation is to be deducted from the appraised value. The remainder is the agreed-to value as an in-kind contribution. Where there has been a consideration it is to be treated separately as a Group A listing. Careful cross-referencing is necessary.

§ 104I-70.603-1 Determining fair market value.

(a) For the purposes of this section, the term "fair market value" shall have the same meaning as the term "just compensation in § 104I-70.305.

(b) The state conservationist and the acquiring agency must agree on the fair market value for each individual Group A landright. This value must be not less than the amount determined by an appraisal acceptable to the acquiring agency and SCS made by a qualified land appraiser. However, the state conservationist must not agree to a just compensation amount in excess of the accepted appraisal without supporting data to justify a higher amount. Sources of services by qualified land appraisers include: (1) professional private appraisal firms; (2) use of acquiring agency or SCS staff appraisers; (3) appointment by the acquiring agency of a board of evaluation or comparable board or committee if required to comply with State law; and (4) use of the professional appraisal staff of other Federal agencies by agreement under authority of Section 601 of the Economy Act, (31 USC 686). Some Federal agencies having such staffs are Federal Land Bank, Farmers Home Administration,

§ 104I-70.603 Determining amount of SCS financial assistance.

The extent of SCS financial assistance on landrights costs shall be set forth in Section C of the landrights agreement. The agreement shall show the percentage to be paid by SCS. This percentage must agree with that shown in the program agreement. The specified percentage shall apply to an amount for each eligible landrights cost item determined under the following criteria:

(a) The cost of appraisals will be shared as mutually agreed to between the acquiring agency and SCS in the measure or project plan; however, the SCS financial assistance may not exceed fifty percent. Financial assistance may be provided for reappraisals to update fair market value when there is a delay between appraisal and acquisition. If assistance is provided for reappraisal, the state conservationist shall document in the landrights file his justification for the action including the reasons for the delay.

(1) If the expense of a professional private appraisal firm is to be shared, it is preferred that the SCS award and administer the contract. However, selection of the appraiser should be made jointly by the acquiring agency and SCS, and the contract should be acceptable to the acquiring agency.

(2) If the professional appraisal staff of other Federal agencies is used, the SCS must execute the agreement with the other Federal agency. The agreement must be acceptable to the acquiring agency.

(b) For Group A Items as described in § 104I-70.602-3:

(1) The price paid by the acquiring agency or the fair market value jointly determined by the acquiring agency and SCS, whichever is the lesser amount. The fair market value (FMV) must be established and incorporated into the landrights agreement for each landright which is eligible for financial assistance. This must be done before the SCS financial assistance for the landright is provided the acquiring agency. It is preferred that it be done prior to the acquiring agency initiating negotiations for the landright.

(2) The amount of damages awarded by the court under condemnation proceedings. However, if the SCS considers the award excessive and the acquiring agency does not agree or fails to exercise any appeals available to it, which the SCS considers to be necessary, the financial assistance shall be based on the FMV jointly determined by the acquiring agency and SCS.

(3) The FMV established by SCS, when the acquiring agency and SCS cannot jointly agree on the value. (Prior to making this unilateral determination, when the acquiring agency and SCS cannot reach agreement on the FMV, all the facts and the recommendation of the state conservationist should be submitted to the Administrator for advice.)

(4) The acquiring agency may in some instances decide to pay what SCS considers an excessive price for one or more ownerships in order to expedite the project or to avoid the expensive process of condemnation. In such cases,

§ 104I-70.601 General.

This subpart sets forth the additional procedures if use of SCS program funds for financial assistance on landrights is authorized in the program agreement. The details of cost on landrights will be documented in a landrights agreement. See Exhibit § 104I-70.1111. This agreement shall be between SCS and the acquiring agency. The financial arrangements including landrights eligible for assistance, must not differ from the basic arrangement set forth in the program agreement without an appropriate amendment to the program agreement as provided for in the appropriate program handbook.

§ 104I-70.602 The landrights agreement.

§ 104I-70.602-1 Timing.

Before a landrights agreement can be executed, the project must have been approved for operations and funds allocated. The agreement, however, may be executed prior to the appraisals of the landrights provided a reasonably sound estimate can be made. If this is done, the agreement should indicate (a) that the values are estimates and (b) that the agreement will be amended later to reflect actual agreed to values.

§ 104I-70.602-2 Prerequisites.

The following actions must be completed and the determinations made prior to execution of a landrights agreement for a specific site designated in a program agreement as eligible for financial assistance on landrights.

(a) Agreement reached as to the landrights needed for the entire site including access roads and utility rights-of-way, and a determination made as to whether the acquisition of the needed landrights will result in the displacement of persons, businesses, or farm operations that will be eligible for relocation assistance advisory services and relocation payments. If such displacements will occur, refer to Subpart 104I-71.

(b) Apparent ownerships have been determined.

(c) The state conservationist has determined that the site selected is adequate for the proposed development; namely that detailed site investigations, design and other pertinent actions have progressed far enough to insure that the proposed site will be used as planned.

(d) The state conservationist has been satisfied that the financial arrangements proposed by the acquiring agency for defraying its share of the landrights costs are adequate and sound.

(e) An operation and maintenance agreement covering the entire site including access roads and utility rights-of-way has been entered into or will be concurrently with the execution of the landrights agreement.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.602-2(f)

(f) Any necessary amendments to the program agreement have been executed.

(g) The presence and value of any parcels of land which might qualify as in-kind contributions have been identified.

§ 104I-70.602-3 Content.

(a) Exhibit § 104I-70.1111 contains the provisions generally necessary to detail Federal financial assistance on landrights. Any deviation from such content must have the prior approval of the ASD.

(b) All landrights eligible within the scope of the program agreement for SCS financial assistance shall be identified in Attachment No. 1 to the landrights agreement. They will be listed in either Group A, B, or C as described below:

(1) The Group A listing shall cover transactions of all eligible landrights for which the cost of the landright is covered by the monetary consideration recited in the landrights instrument. The SCS financial assistance for these landrights will be encumbered and paid under the authority of the landrights agreement. A fair market value agreed to by the acquiring agency and SCS after completion of the necessary appraisals must be incorporated in the landrights agreement for each landright listed in Group A. Establishing the fair market value is a prerequisite for any reimbursement by SCS for a landright listed in this group.

(2) The Group B listing shall cover transactions of all eligible landrights for which the cost of the landright is not covered by the monetary consideration recited in the landrights instrument. As a general rule this listing will be limited to construction activities and engineering services required for removals, relocations and modifications of existing facilities where:

(i) Title to the facility is retained by the grantor; and

(ii) The granting instrument requires subsequent removal, relocation or modification of the facility at the expense of the grantee; and

(iii) This expense is not included in the granting document.

Group B items shall be accomplished under either a project agreement or an agreement for engineering services, or both. The cost estimates for the items in Group B are not required in either the landrights agreement or Attachment No. 1 thereto. The SCS financial assistance on these items is to be encumbered and paid as landrights cost under the authority of the project or engineering services agreement. Execution of this agreement constitutes concurrence of SCS and the acquiring agency as to the estimated cost for such items.

(3) The Group C listing shall cover transactions of eligible landrights which are held by the acquiring agency in fee title or are donated in fee title to the acquiring agency by a nonfederal third party. The total amount eligible as an in-kind contribution is to be identified in Section C of the landrights agreement.

§ 104I-70.101 Delegation of authority.

Where the title "state conservationist" is used in this Part, authority to act on behalf of the Administrator, SCS, is delegated to the state conservationist." Decisions made or actions taken by a state conservationist under this delegation of authority are to be documented in writing. The documentation must include a statement of the facts and the basis for his decision.

§ 104I-70.102 Federal income tax.

(a) The following information may be of interest to sponsors. It concerns advantages to taxpayers provided by Federal income tax laws when easements are acquired by condemnation or under threat of condemnation in watershed projects or RC&D measures. If this information is provided to sponsors, stress to them the importance of reviewing any proposed specific actions with the appropriate field office of the Internal Revenue Service.

(b) Section 1033, Title 26, U.S. Code, entitled Involuntary Conversions, relating to Federal income taxes, is applicable to cases wherein local organizations acquire for a monetary consideration easements from landowners for works of improvement in connection with watershed projects or RC&D measures either as a result of actual condemnation proceedings or of grants made by landowners under threat of condemnation. In such cases, if the landowner, for the purpose of replacing the property included in the easement, purchases within a specified period of time other property which is similar or related in service or use to that included in the easement, the gain, if any, resulting from such condemnation or grant of the easement is subject to Federal income taxes only to the extent that the amount realized from such condemnation or grant of the easement exceeds the cost of such other property. Thus, if the cost of such property is equal to or greater than the amount realized from such condemnation or grant of the easement, the entire gain, if any, is free from Federal income taxes.

(c) It should be noted that for landowners to be entitled to the benefits of the above-mentioned section it is not necessary that condemnation proceedings be actually instituted by local organizations; it is sufficient if the easements are granted by landowners under threat of condemnation. A letter to a landowner from the acquiring agency which has the power of condemnation under State laws, stating in effect that a particular easement is needed in connection with a specified watershed project or RC&D measure and that unless it is granted condemnation proceedings will be commenced, could be adequate to establish the existence of the threat of condemnation. It is suggested, however, that any questions of landowners pertaining to the adequacy of such letters and to the general application of the provisions of the above-mentioned section to actual cases, should be taken up with the appropriate field office of the Internal Revenue Service.

§ 104I-70.103 Responsibility in case of failure.

In case of failure of works of improvement the legal responsibility will have to be determined by the actual facts in the case. Normally the Federal Government is not legally responsible. Such responsibility will originally rest with the

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.103

sponsors in whose name the interest in the land is taken, or with the group responsible for operation and maintenance, or both. It is accordingly highly essential that a sufficient and effective plan of operation and maintenance be arranged.

§ 104I-70.104 Liability of landowners for water impounded on their lands.

The final determination as to a landowner's liability in the event of an accident occurring in water impoundment areas on his land would, in the opinion of the Office of the General Counsel, depend upon the statutes and the decisions of the courts in the particular State in which the accident occurred. It is also the opinion of OGC that it would be immaterial to that determination whether or not the impoundment area was created with assistance under a Federal financially assisted program.

§ 104I-70.105 Acts not authorized by SCS personnel.

SCS personnel are not authorized to:

- (a) Make any promise or commitment to landowners.
- (b) Act in any manner that might be construed as their being a representative or agent of the acquiring agency or other sponsors.
- (c) Act as a witness or as a notary to the signing of any landrights instrument (if such signing is a requirement of State law), except in unusual circumstances.
- (d) Act on behalf of the acquiring agency in recording landrights instruments.
- (e) Place any data or information in or on any landrights instrument.
- (f) Create any obligation on behalf of the Federal Government for any cost for landrights other than the execution of a landrights agreement (104I-70.602).
- (g) Make any property or landrights boundary surveys. (Not to be confused with surveys of the boundary of the reservoir and other construction areas.)
- (h) Make title searches to obtain information to be used in acquiring landrights interests.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.204

to construct, operate, inspect, and maintain structural works of improvement. Where the works of improvement are limited to land treatment measures which are to be operated and maintained by other than the landowner, the acquiring agency may obtain the right to install, inspect, operate and maintain such measures by use of a term easement. Critical area plantings (nonstructural works) under the RC&D program may be accomplished using a permit giving permission to install when maintenance is to be performed by the landowner and is of a nonrecurring nature.

(a) Where the state statutes have authorized the acquisition of landrights by legally organizing a drainage district, or by comparable arrangements, the citation of the Act and all the facts pertaining to the case must be submitted to the Administrative Services Division for consideration and decision.

(b) Where a loan is being obtained from the Farmers Home Administration (FmHA):

(1) Fee title to real property acquired for storage reservoir sites, pump sites, and similar purposes ordinarily will be required.

(2) Where the loan is for the purchase of real property, arrangements should be made for the real property instruments that have a monetary consideration to be placed in escrow with an escrow agent. As soon as all the real property has been obtained, the FmHA loan should be closed, payments made to the real property owners, and the real property instruments recorded. Prior to making payment for such landrights, the acquiring agency should make a final check to determine that there has been no change of ownership, and that no interest in the real property has been conveyed to a third party which would affect the rights being conveyed to the acquiring agency.

(c) Where real property is being acquired on a tract which is being purchased under a contract of sale and the seller retains title until the contract is completed, both the seller and the purchaser must execute the real property instrument.

(d) A contract for the purchase of real property by the acquiring agency does not vest title in the acquiring agency and will not meet SCS requirements. A proper deed, easement, or permit is necessary.

§ 104I-70.205 Interest in buildings, structures,  
and improvements.

(a) In the following instances buildings, structures, and improvement shall be treated as a part of the landrights to be acquired, and the acquiring agency must offer to obtain at least the same interest in the buildings, structures, and improvements as is acquired in the land:

(1) Buildings, structures, and other improvements located on acquired land which the acquiring agency will require to be removed from said lands; and

(2) Buildings, structures, and other improvements located on acquired land which the acquiring agency determines will be adversely affected by the use of the land by such agency.

§ 104I-70.201 Landrights requirements.

Prior to the commitment of Federal financial assistance to any phase of installation of works of improvement the acquiring agency must provide written assurance that all landrights have been acquired to provide for the construction, inspection, operation and maintenance of the works of improvement.

§ 104I-70.202 Types of real property instruments required.

(a) The acquisition of an interest in or permission to use real property is usually documented as follows:

- (1) By deed which conveys fee simple title to the acquired real property.
- (2) By easement which conveys specific identified rights with respect to real property.
- (3) By court order resulting from a condemnation action by which fee simple title or an easement is acquired.
- (4) By permit, or its equivalent, by which permission for the use of real property is given.

(b) A subordination agreement may be required when an interest in or permission to use real property obtained by a deed, easement, or permit is subject to prior outstanding rights which could interfere with the project.

(c) Content of easement forms recommended by SCS for use by the acquiring agency appear as exhibits as follows:

- (1) Exhibit 104I-70.1101 - Easement (For use when the easement is donated.)
- (2) Exhibit 104I-70.1102 - Easement (For use when the easement is purchased.)

§ 104I-70.203 Development and approval of landrights instruments.

Prior to initiation of negotiations for landrights the acquiring agency must obtain approval of the state administrative officer of all landrights instrument forms to be used other than those used in judicial proceedings. Approval by FmHA is required if credit will be obtained from that agency. SCS shall render assistance in the development of landrights instrument forms.

§ 104I-70.204 Interest to be acquired.

Interests in real property must be acquired by fee title, perpetual or term easements for structural and nonstructural works of improvement where there is to be a continuing need for the inspection, operation and maintenance of said works of improvement. The right acquired must give the sponsor the full right

(b) The requirement of (a) applies even though a tenant is the owner of the buildings, structures, and improvements, and has the right or obligation to remove them at the end of the term of tenancy.

(c) The owner must be offered just compensation for said buildings, structures, and improvements.

(1) Where the owner of the land is also the owner of said buildings, structures, and improvements, the just compensation offered the owner must include the land and said buildings, structures, and improvements.

(2) Where a tenant is the owner of said buildings, structures and improvements, the just compensation offered the tenant shall be the greater of (i) the difference between the just compensation for the land with said buildings, structures and improvements, and the just compensation for the land without said buildings, structures, and improvements, or (ii) the just compensation for removal of such buildings, structures, or improvements from the land acquired.

(3) If the owner of the buildings, structures, and improvements wants to retain them for salvage or other off-site purposes, he may do so by reservation in the deed to the acquiring agency. However, the just compensation offered the owner for the deeded property shall not be reduced by more than the value of the buildings, structures, and improvements for salvage or other off-site purposes.

(d) No payment shall be made for buildings, structures, or improvements owned by and acquired from a tenant unless (1) the owner of the land involved disclaims all interest in the buildings, structures, and improvements of the tenant and (2) the tenant assigns, transfers, and releases to the acquiring agency all his rights, title, and interest in and to such buildings, structures, and improvements. The tenant may reject payment under these provisions and obtain payment in accordance with any other applicable law.

(e) No payment will be made which results in duplication of any payment otherwise authorized by law.

§ 104I-70.206 Flooding railroads, highways, public roads, dwellings and other improvements.

The following criteria must be met before installing any structure which would result in flooding of railroads, highways, public roads, dwellings, buildings, water sources, public utilities, burial sites, and historic sites or monuments.

(a) Railroads that are to remain in use shall not be flooded.

(b) Highways and public roads, except as provided in Subpart 104I-70.206(c), shall not be flooded within the elevation of the flowage line unless:

(1) The highway or public road is closed for a brief period at any given time and there is an alternate all-weather route that can be used with a minimum of inconvenience.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.206(b)(2)

(2) A written right or permission to flood the highway or public road has been obtained from the State, county, or agency having jurisdiction over the highway or public road. Such written right or permission may be in the nature of an easement, court order, or, if such cannot legally be given, a permit. The written right or permission must be accompanied by a citation of the applicable State statute or a written opinion of the State Attorney General stating that the State, county, or agency granting the permission has legal authority to allow the road to be closed by flooding.

(c) Dwellings are to be provided an all-weather road for ingress and egress that will not flood more frequently than under pre-construction conditions. If a road providing the only outlet to a dwelling is left at a lower elevation than the flowage line, a historical record of pre-construction flooding shall be developed and documented in the landrights file.

(d) Dwellings, including basements, or any other buildings which contain valuable property or which may be used as living quarters on a permanent or seasonal basis shall not be allowed to remain in the area requiring flowage rights unless flood proofed or otherwise protected from damage by the storm event used to establish the flowage right elevation. Before financial assistance is made available to a local organization, the dwelling or building must be (1) demolished, (2) relocated, (3) raised, or (4) protected by a floodwall. In the event the dwelling or building is raised or protected by a floodwall, it must be done in such a manner that there will be adequate drainage, and no unreasonable ponding of water.

(e) When formally requested by the acquiring agency other buildings such as barns and garages may remain in the flowage easement area upon written justification by the state conservationist and advance approval of the Administrator. Generally, approval for flooding buildings of this nature will not be granted if the building is used for the storage of feed, perishable items, supplies, equipment, or other items which would be substantially damaged by flooding. This also applies to any building used for other purposes when flooding would cause an interruption or delay of operations carried on in the building, or cause a hazard which may result in injury, death, or damage to the building contents.

(f) Water sources such as springs or wells shall not be flooded until sponsors have complied with legal requirements of State laws, ordinances, and regulations relating to items such as contamination. For example, it may be necessary for sponsors to plug or cap wells.

(g) Public utilities shall not be flooded unless the utility company has determined that the function of the facility will not be affected adversely, and a subordination agreement has been obtained.

(h) Burial sites, such as private family plots, cemeteries, and graveyards shall not be flooded unless disinterment and reburial has been accomplished in accordance with State law.

(i) Historical sites or monuments shall not be flooded until the state conservationist has complied with EVT Memorandum-1 as supplemented.

§ 104I-70.206-1 Removal, relocation or modification of existing improvements.

(a) It may be necessary to remove, relocate or modify existing improvements so that they will not interfere with the public use.

(1) Where the cost of the removal, relocation or modification is covered by the monetary consideration in the landrights instrument the removal, relocation or modification will be the responsibility of the grantor. The acquiring agency and SCS interest in the actual removal, relocation or modification by the grantor will be limited to the coordination of the grantor's plans and actions with construction plans.

(2) Where the cost of the removal, relocation or modification is not covered by the monetary consideration listed in the landrights instrument the removal, relocation or modification may be accomplished by the owner of the improvement or by the acquiring agency. Force account or contract by either the owner or the acquiring agency are acceptable methods of accomplishing the work when SCS cost sharing is involved.

§ 104I-70.207 Landrights acquired by permit.

(a) Written permits, or their equivalent may be used for:

(1) Installation of land treatment measures where the benefits accrue substantially to the land owner on whose land such measures are installed provided the maintenance is nominal and is to be performed by the landowner. This type of interest may be acquired by inclusion in a cooperator-district agreement.

(2) Elements of works of improvement that are a one-time operation, nonrecurring, and for which there is not a continuing need for operation and maintenance, such as spreading spoil, borrow removal, and haul roads.

(3) Obtaining right of entry for construction on State and Federal lands and highway and railroad rights-of-way.

(4) Permission to enter upon land to do survey or site investigation work.

(b) Where construction is involved in any of the instances cited in § 104-70.207(a), term easements should be obtained rather than term permits.

(c) Contents of permit forms recommended by SCS for use by the acquiring agency appear as exhibits as follows:

(1) Exhibit § 104I-70.1108 - Installation Permit. (This form may be used for the purposes set forth in § 104I-70.207(a)(1), (2), and (3).)

(2) Exhibit § 104I-70.1109 - General Permit. (This form is for use for the purpose set forth in § 104I-70.207(a)(4) and for the purposes of temporary ingress and egress, removal of borrow, and other similar purposes of short duration.)

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.207(d)

(d) Permission to use real property obtained by permit may also require a subordination agreement to subordinate outstanding rights held by others to that of the acquiring agency.

§ 104I-70.208 Landrights acquired by condemnation.

(a) The time of condemnation will neither be advanced, nor negotiations, condemnation or the deposit of funds in court be deferred, nor any other action coercive in nature taken to compel an agreement on price.

(b) If the real property is to be acquired by condemnation, proceedings will be instituted promptly. No action will be taken intentionally which will make it necessary for an owner to institute legal proceedings to prove the taking of his real property.

(c) If the final judgment of the court in a condemnation case provides that the acquiring agency cannot acquire the real property by condemnation, or if the proceeding in condemnation is abandoned by the acquiring agency, the acquiring agency must pay the owner of the property such sum as will reimburse the owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the condemnation proceedings. Should this cost not be covered by a court order, the acquiring agency still shall pay such costs to the owner.

(d) A project agreement for the installation of works of improvement will not be entered into where landrights are to be acquired by condemnation until:

(1) The proceedings have progressed to the point where either a court order has been entered giving the acquiring agency the right to possession of the land, or the title to the interest in the land has become vested in the acquiring agency by a judgment of the court; and

(2) In either case, except where the time for appeal from the judgment of the court has expired, the acquiring agency and SCS have entered into a written agreement whereby the acquiring agency agrees to prosecute the condemnation proceedings to a final conclusion and pay such damages as are finally awarded. A sample condemnation agreement appears as Exhibit § 104I-70.1110.

(3) If a landowner in a condemnation action initiates an appeal which involves a question other than the amount of damages to be awarded for the taking, the acquiring agency shall immediately notify the state administrative officer.

(i) Where the appeal is taken prior to execution of the project agreement, the issuance of invitations for bids, or award of contract, no further action shall be taken in regard to the proposed construction until the state administrative officer has consulted with the field attorney of OGC. If after such consultation on the legal aspects of the appeal, the state administrative officer concludes that it is reasonably safe to proceed with the work while the appeal is pending, the acquiring agency may be authorized to proceed provided all other requirements have been met.

(ii) Where the appeal is taken after award of a contract, the state administrative officer shall consult with said field attorney to determine whether any action should be taken by the acquiring agency or SCS in respect to the construction contract.

(iii) Where advice of the Administrative Services Division is needed, the memorandum from the state administrative officer requesting such advice must be accompanied by a copy of the court proceedings, a copy of the legal advice furnished by the field attorney, all other pertinent information, and the recommendation of the state administrative officer.

(4) If the procedure discussed in (d)(1) above does not conform with State statutes for a particular State, the state administrative officer is to request advice of the Administrative Services Division and furnish all pertinent information with such request.

(e) Interest in or permission to use real property obtained by condemnation may require a subordination agreement to subordinate outstanding rights held by others to that of the acquiring agency.

§ 104I-70.209 Subordination agreements.

(a) Real property needed for project purposes may be found to have been obligated under a prior landrights instrument for purposes not associated with the project, or by security or judgment liens. If such prior rights or encumbrances are not subordinated to the purposes of the project, use of the real property for project purposes could be enjoined. Further, foreclosures of the previous lien, such as a mortgage, would completely extinguish the interest conveyed by the landrights instrument. (The term "fee simple" is often thought of as a full and complete title, free of encumbrances. This is not necessarily true, since a fee simple title may be subject to certain exceptions and reservations).

(b) A subordination agreement usually may be obtained without a monetary consideration. This should be determined in the contact with the holder of the outstanding right prior to initiation of negotiations. However, there may be instances when contact with the holder of the right will reveal that a consideration must be paid. Just compensation would then have to be determined and an appropriate offer made to the holder of the right. In some instances an evaluation by a land appraiser alone may not be sufficient. An example is a transmission line which must be relocated or modified. An engineer's estimate may be more appropriate for this type of action.

(c) Rights in real property vested in other than the acquiring agency must be subordinated to the rights acquired for project purposes by the acquiring agency where:

(1) Construction under a prior right is in progress or has been completed. However, arrangements satisfactory to the state conservationist for removal, relocation, or modification of the construction may be accepted in lieu of a subordination agreement.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.209(c)(2)

(2) The landrights needed for the site of a structural works of improvement (including any permanent and flood pool areas) are required to be obtained by fee title or perpetual easement and such rights are acquired subject to a prior right for strip mining.

(3) Required by the provisions of National Engineering Manual, 40-531.40-43 (Dams Subject to Deep Subsidence).

(d) Subordination of prior landrights for term leases, judgment liens, and security liens such as mortgages and deeds of trust and for purposes other than those specified in § 104I-70.209(c) are not specifically required by SCS. However, since the acquiring agency is responsible for acquiring adequate landrights, the desirability of its consulting its attorney on the need for obtaining subordination agreements must be called to the attention of the acquiring agency. There may be good legal reasons for its attorney to advise it to secure such agreements. This must be stressed when credit is being obtained and FmHA loan funds will be used to pay a cash consideration for the landrights. Since the question of such subordination agreements is primarily legal and the decision rests with the acquiring agency, SCS personnel shall in no case advise or express an opinion that such agreements should not be obtained.

(e) Subordination agreements must be recorded.

(f) Content of a subordination agreement is suggested in Exhibit § 104I-70.1104.

(g) In any case where lands are being acquired for public use, careful consideration must be given by the state conservationist and the acquiring agency to determine if an outstanding right will interfere with the public use of the property.

(1) If it is determined that an outstanding surface right, including strip mining, will not interfere with the public use to the extent that it will have to be extinguished or removed, at least a subordination agreement must be obtained.

(2) The need to acquire title to or merely subordinate rights to sub-surface mineral and liquid and gaseous deposits must be determined under the criteria set forth in National Engineering Manual, 40-531.40-43. Rights not acquired must be subordinated to the acquiring agency's right to control the development of the deposits in a manner that will not interfere with the primary purpose of the project including public access. Exhibit § 104I-70.1113 is a subordination agreement suggested for this purpose.

(3) When it is mutually determined by the acquiring agency and the state conservationist that an outstanding right, other than those described in the two preceding paragraphs, need not be acquired or subordinated, the determination shall be reduced to writing and include the supporting reasons. The SCS copy of the statement shall be made a part of the state office landrights records for the site involved.

§ 104I-70.210 Content and processing of deeds, easements and permits.

§ 104I-70.210-1 Purpose clauses.

To assure that the interest acquired in or permission obtained to use real property is adequate for the purpose needed, care must be exercised in developing the wording to be used in the purpose clause in easements, permits, and subordination agreements. Such wording recommended by SCS for use by the acquiring agency appears as Exhibit § 104I-70.1105.

§ 104I-70.210-2 Special provisions.

In addition to general conditions specified in real property instruments the results of negotiation may require addition to the real property instrument of specific conditions that the grantor or the acquiring agency must observe. Such provisions must be developed with care and described in detail in the real property instruments. Prior to recording, and preferably before execution of the instrument, the acquiring agency must obtain SCS approval of all special provisions to be inserted in real property instruments. If it is likely that the acquiring agency will seek credit from FmHA, such provisions will be referred to the state director of that agency for his approval.

Special provisions may need to be included in easements to provide for appropriate use and disposition of water as prescribed by State law relating to water. Special provisions may be needed in easements to provide for use and disposition of water in addition to that provided for in connection with operation of the structure.

§ 104I-70.210-3 Reference to maps.

Where real property instruments refer to a map, the map must be filed in the official real property records of the county in which the real property is located. The map may be attached to and made a part of the instrument, or it may be a "Plat Survey" or "Survey of Plat."

§ 104I-70.210-4 Name of grantee.

Interests acquired in real property must run to one or more of the sponsors of the project, preferably the ones that will operate and maintain the project measures. Where an FmHA loan is involved, the interest must run to the borrowing sponsor who will operate and maintain the project measures. This interest may run jointly to the borrowing sponsor and another sponsor, or sponsors.

§ 104I-70.210-5 Name of grantor.

In the execution of deeds or easements the signature of the grantor must match the listed grantor. When they do not match, the sponsors must supply an opinion by their attorney as to the document's adequacy or a correction document. All grantors must have signed. In the case of an agent (estate executor, business officer, agency or department representative, etc.), evidence of the agent's authority must be attached.

§ 104I-70.210-6 Execution of deeds and easements.

Deeds and easements must be executed as prescribed by State law.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.210-7

§ 104I-70.210-7 Recording.

(a) Interests acquired in real property, except those acquired by condemnation, must be recorded by the acquiring agency in the official real property records of the county in which the real property is located prior to signing of a project agreement. Normally a permit need not be recorded.

(b) Where the real property instruments have been filed for recording but have not yet been recorded, a citation to the filing may be accepted in lieu of the recordation information.

§ 104I-70.211 Certification - investigations and surveys.

Engineering services for site investigations and surveys to be paid from SCS funds may be provided by the sponsor or SCS. Either may provide the services by contract or use of their own personnel. Some form of map or information should be given the acquiring agency to enable it to identify the lands on which landrights will be required. A landrights work map of the scope contemplated in § 104I-70.705 should not be necessary for determining the landrights needed for performing investigations and surveys.

(a) Where the services are provided by a sponsor using its own personnel SCS need not review the landrights instruments obtained by the acquiring agency for the purpose of performing investigations and surveys. A letter to SCS from the acquiring agency certifying it has acquired the necessary landrights will be sufficient.

(b) Where the services are to be provided by contract or by the use of SCS personnel, it is desirable for SCS to have a copy of each landrights instrument obtained by the acquiring agency for the purpose of performing investigations and surveys. However, SCS review of the landrights instruments in the files of the acquiring agency will suffice, provided the state administrative officer indicates in his file that such review was carried out. A certification by the acquiring agency is not necessary in this situation.

§ 104I-70.301 Acquisition by agreement.

Every reasonable effort must be made to (a) acquire landrights by agreement with owners based on negotiations, (b) assure consistent treatment for owners; and (c) accomplish negotiations expeditiously. In no event shall negotiations be deferred or any other action coercive in nature be taken in order to compel an agreement.

§ 104I-70.302 Prerequisite to initiation of negotiations.

Where landrights are to be acquired by negotiation, other than by donation or land exchange, an appraisal must be made, just compensation established, and a written offer made to the owner of the landright to be acquired. Excluded from these three requirements are:

- (a) Term easements, permits, leases, and rental agreements for use of real property only during construction or installation of works of improvement.
- (b) Arrangements for rerouting, relocating, moving, or abandoning of highways, roads, railroads, pipelines, and utilities.

§ 104I-70.303 Appraisals.

Prior to initiation of such negotiations, the acquiring agency must have the landrights interest to be acquired appraised by a qualified land appraiser. The appraisal must be performed in a manner consistent with the Uniform Appraisal Standards for Federal Land Acquisitions. Prior to acceptance of the appraisal report by the acquiring agency, that agency must have the report reviewed by another qualified land appraiser to determine whether the appraisal is adequately supported; whether it complies with recognized appraisal practices; and whether it conforms to legal premises governing the particular acquisition. In certain instances an engineer's estimate may be needed in lieu of or in addition to the land appraiser's appraisal.

(a) This requirement does not preclude prior discussion with the owner of the real property to be acquired concerning the availability of the real property and possibility of a donation.

(b) To meet the intent of the term "qualified land appraiser," a person should have had either instruction in an appraisal school in the basic principles of appraising real property and specialized training in the type of real property to be appraised, i.e., urban, rural, ranch, etc., or equivalent practical training under a professional appraiser. In addition he should have had actual experience in the independent appraisal of several properties of the type for which his services are required, and with the acceptance of such appraisals by his client or employer. Where condemnation is involved the appraiser must, if required by State law, be licensed or certified.

(c) The owner of the real property, or his designated representative, must be given a reasonable opportunity to accompany the appraiser during his inspection of the property.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.303(d)

(d) For instances requiring the purchase of flood insurance, the location of the property in relation to the special flood hazard area should be part of the appraisal.

§ 104I-70.303-1 Damages and offsetting benefits to remainders.

Where appropriate, regardless of whether the taking is in fee or by easement, the estimate of the fair market value of the real property to be acquired and the estimate of damages or offsetting benefits to any remaining real property of the grantor will be separately stated.

(1) Any damages shall be appraised on the basis of the damages to the remainder resulting from the taking.

(2) Any benefits shall be appraised on the basis of the favorable effects, if any, of the project on the remainder.

(3) Where State law authorizes damages or benefits they are to be considered to the extent stated below:

(i) If damages are greater than benefits, the excess of damages will be added to the appraised value of the taking.

(ii) If benefits are greater than damages, the excess of benefits will be deducted from the appraised value of the taking.

§ 104I-70.304 Making appraisals.

(a) Appraisals must comply with § 104I-70.303. Neither the acquiring agency nor SCS is to use anyone for appraisal work who has a direct or indirect interest in the property being appraised.

(b) As stated in § 104I-70.209 in some instances an engineer's estimate may be required in lieu of or in addition to a land appraisal. The SCS or the acquiring agency may have engineers qualified to make this kind of estimate. However, if the evaluation is of such a nature that the SCS or the acquiring agency does not have qualified engineers to do the job, the needed engineering service is to be obtained by contract, agreement, or other approved procurement method. In selecting a method to use and executing the selected method, follow the procedures for appraisal service contained in § 104I-70.303.

(c) If the use of the right-of-way occupied by a facility such as a pipeline or power line will require relocation or modification of the facility, the fair market value for use of the right-of-way and for the relocation or modification of the facility is to be established separately.

(1) The fair market value for use of the right-of-way is not to exceed the cost of a replacement right-of-way. Circumstances may dictate a lesser amount. A land appraisal will be appropriate for this purpose.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.306

§ 104I-70.306 Initiation of negotiations.

(a) When just compensation has been established, the acquiring agency will make a prompt offer to acquire the landright for the full amount of the just compensation so established. This offer shall be made in writing and shall include:

(1) Identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements considered to be part of the real property to be acquired.

(2) The amount of the estimated just compensation as determined by the acquiring agency and a summary statement of the basis therefore.

(3) If only a portion of the real property is to be acquired, a separate statement of the estimated just compensation for the real property interest to be acquired and any damages and benefits to the remaining real property.

(b) The offer of just compensation does not preclude further negotiations with respect to the purchase price.

(c) The source by which appraisal services will be obtained will be left to the judgment of the acquiring agency and the state conservationist. However, in any case in which condemnation will be involved, SCS and other USDA agency staff land appraisers should not be used except where no other qualified land appraisal service is available.

§ 104I-70.307 Expenses incidental to transfer of title.

(a) As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award in a condemnation proceeding to acquire real property, the owner will be reimbursed for fair and reasonable expenses for:

(1) Recording fees, transfer taxes, and similar expenses incident to conveying the real property to the acquiring agency,

(2) Penalty costs for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering such real property, and

(3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is earlier.

(b) Proposed Standard Form 260, a copy of which appears as Exhibit § 104I-70.1107 is to be used by owners to claim reimbursement of these costs.

SUBPART 104I-70.3 ACQUISITION OF LANDRIGHTS

104I-70.305-1

(2) The fair market value for the relocation or modification of the facility will be based on variable factors such as the age, condition, state or repair, remaining expected useful life and estimated labor and material cost required for the relocation or modification. In most cases, an engineer's estimate will be appropriate for this purpose.

(d) If a landright is to be acquired by condemnation, it must be assumed that the owner of the landright will have expert witnesses to testify in court. Therefore, the acquiring agency must also have expert witnesses available. Usually the court award may be used as a value on which to base cost sharing. However, when SCS determines that court awards are excessive, the acquiring agency must be asked to appeal to a higher court.

(e) If the services of professional private appraisers are obtained by SCS contract, the state conservationist may authorize the appraisers to serve as witnesses for the acquiring agency in condemnation cases. Direct expenses incurred by appraisers during the giving of expert testimony in defense of the appraisal report may be shared in the same manner as indicated in § 104I-70.603.

§ 104I-70.305 Establishing just compensation.

Prior to initiation of negotiations the acquiring agency shall establish an amount it believes to be just compensation for the real property interest to be acquired. In no event shall this amount be less than the amount in the appraisal approved by the acquiring agency. The acquiring agency shall not give consideration to or include in its determination of just compensation:

(1) Any allowance for the relocation benefits discussed in § 104I-71.

(2) Any allowance for any decrease or increase in the fair market value of the real property prior to the date of its determination of just compensation which is caused by the project measure for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner.

§ 104I-70.305-1 Uneconomic remnants.

If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the acquiring agency shall offer to acquire the remnant. A remnant of land is that remaining after a partial taking from a larger tract or holding regardless of the purpose (residential, commercial, industrial, farm, etc.) for which the property as a whole was used prior to the taking. Although a remnant of land is usually a small area as compared to that taken, area is not necessarily a controlling factor. The remnant is uneconomical if its usefulness or marketability as an independent unit or as a supplement to another land unit has little, if any, value. The term uneconomic remnant has no relationship to the displacement of persons, business, and farm operations discussed in § 104I-71.

SUBPART 104I-70.3 ACQUISITION OF LANDRIGHTS

104I-70.312

§ 104I-70.308 Possession of acquired real property.

The owner of a landright shall not be required to surrender possession of acquired real property until the acquiring agency pays the agreed purchase price in a negotiated acquisition, or deposits with the court for the benefit of the owner an amount not less than the amount:

- (a) Determined by the acquiring agency to be just compensation; or
- (b) Awarded in compensation by order of the court in condemnation proceedings.

§ 104I-70.309 Requirement to move.

The construction or development of a project will be so scheduled that to the greatest extent practicable, no person lawfully occupying acquired real property will be required to move from a dwelling (assuming a replacement dwelling will be available), or to move his business or farm operation, without at least 90 days written notice prior to the date on which such move is required. A notice of less than 90 days may be given only in an emergency or other extraordinary situations. When it is proposed to give an advance notice of less than 90 days, the prior approval of the state conservationist will be obtained.

§ 104I-70.310 Displacement notice to tenants.

Tenants occupying the real property to be acquired shall be given a displacement notice not later than when negotiations for landrights are initiated with the owner.

§ 104I-70.311 Leasing to former owner or tenant.

If an owner or tenant is permitted to occupy the acquired real property on a rental basis for a short term, or for a period subject to termination by the acquiring agency on short notice, the amount of rent required will not exceed the fair rental value of the property to a short term occupier.

§ 104I-70.312 Contracts or options.

Contracts or options to acquire landrights shall not provide for any payments for relocation costs (§ 104I-71) or refer to such payments.

SUBPART 104I-70.4 FEDERAL, STATE AND LOCAL CONSTRUCTION  
PERMITS

104I-70.405

§ 104I-70.401 General.

Some Federal agencies, States or local units of government require that construction permits be obtained before the project measure may be installed. Federal permits are issued by a regulating agency or department. State or local construction permits are governed by State or local law. The variations in these laws preclude detailed national instructions. Detailed regulations have been published by the Corps of Engineers on Section 404 of the Federal Water Pollution Control Act. These requirements can be found in Title 33 CFR Parts 320 to 340.

§ 104I-70.402 Responsibilities.

SCS neither acquires nor shares in the cost of construction permits. Sponsors receiving Federal financial assistance from SCS must comply with Federal, State or local laws pertaining to the acquisition of construction permits.

§ 104I-70.403 Soil Conservation Service.

SCS must assure that the construction permits acquired by the sponsor have been certified by the sponsor as adequate before Federal financial assistance is made available by SCS for construction. The certification is a part of Form SCS-AS-78.

§ 104I-70.404 State conservationist.

The state conservationist shall determine and have published for in-Service use the proper procedure to be followed to assure strict compliance with the applicable laws, procedures and regulations. He should work with the appropriate field office of the Office of the General Counsel and the State or local agency administering the law to determine requirements of Federal and State laws regulations. SCS procedures should indicate which plans, drawings, applications, and similar items should be transmitted to State or other local agencies, who will transmit them and the timing of such transmittals.

§ 104I-70.405 Assistance to sponsor.

SCS will furnish the sponsor with any information which SCS has prepared for its own use covering the laws, procedures, and regulations governing the application for construction permits. (It should be emphasized that this information has been developed for in-Service use and does not relieve the sponsor from determining and complying with all Federal, State and local laws and regulations.) SCS will discuss with the sponsor the possible effect the construction permit may have on the structural works of improvement. If a known or suspected construction permit has not been obtained, this is to be called to the attention of the sponsor for such action as may be appropriate.

## § 104I-70.501 General.

The use of water and water rights is often governed by State laws. The variation in these laws and the attendant variation in procedures preclude detailed guidelines for nationwide application. Even within a State the water rights laws and procedures may be so broad and complicated that preparation of detailed guidelines for local use may be practical only on an individual case basis.

## § 104I-70.502 Responsibilities.

SCS neither acquires nor shares in the cost of water rights. Landowners and sponsors receiving assistance under Federal financially assisted programs administered by SCS must comply with State laws pertaining to the acquisition of water rights.

## § 104I-70.503 Soil Conservation Service.

SCS must assure that the water rights acquired by the sponsors, landowners, and water users have been certified by the sponsors as adequate before Federal financial assistance is made available for construction. The certification is a part of Form SCS-AS-78.

## § 104I-70.504 State conservationist.

The state conservationist shall determine and have published for in-Service use the proper procedure to be followed to assure strict compliance with local laws, procedures and regulations. He should work with the appropriate field office of the Office of the General Counsel and the State Attorney General to determine requirements of State law and regulations. He should also consult with State Water Resources Commissions, Drainage Boards, and similar State water management agencies for developing the in-Service procedures. SCS procedures should indicate which plans, drawings, applications, and other similar items should be transmitted to State agencies, who will transmit them, and the timing of such transmittals.

## § 104I-70.505 Assistance to sponsor.

(a) SCS will furnish sponsors with any information which SCS has prepared for its own use covering local laws, procedures, and regulations governing the use of water and water rights. (It should be emphasized that this information has been developed for SCS use and does not relieve the sponsor from determining and complying with all State laws and regulations.) SCS will discuss with the sponsor the possible effect of the works of improvement on water rights and vice versa.

(b) If a known or suspected water right has not been obtained, this is to be called to the attention of the sponsor for such action as may be appropriate.

(11) Any reversionary date specified in the instruments that is contingent upon commencement of work is well after the date work is expected to commence on the works of improvement. In making this determination, if credit is being obtained through FmHA and the instruments contain a reversionary clause, advice should be obtained from the FmHA State director as to the time loan funds likely will be available.

(c) In the absence of a certification by an attorney, the SAO also must determine the following in his review:

- (1) All grantors or permittees named in the instrument have signed it.
- (2) Signatures and names in the instrument correspond in spelling and initials.
- (3) All required signatures have been obtained, witnessed and notarized or acknowledged in accordance with State law.
- (4) The land has been properly and adequately described.
- (5) Deeds, easements and subordination agreements have been recorded in the land records of the county in which the lands are located.
- (6) Instruments signed by another than the owner are supported by evidence of authority to so act, (e.g., power of attorney, executor, etc.).

(d) The state administrative officer should establish and maintain continuous liaison with the acquiring agency in order to keep currently informed on the progress of the land acquisition program. This will, among other things, enable inadequacies to be detected early and corrective action taken to avoid delay in subsequent initiation of construction work.

§ 104I-70.704 Landrights work map.

(a) SCS shall prepare landrights work maps for use by SCS personnel and the acquiring agency. The maps will serve as working tools in acquiring and checking the acquisition of landrights. The maps are a visual picture of the rights needed and those existing works that may be affected. They are not construction drawings. The map shows data essential to acquire landrights and to review the documents to assure that all needed rights and permits are covered. The minimum data to be included are landmarks for location, acquisition elevations, apparent ownerships and tract acreages, apparent boundaries, location of the project measure, installations affected by construction such as roads, utility lines, pipelines, railroads, buildings, wells, springs, bridges, fences, and other similar items, and flowage elevations. Other data should be included as necessary for the project such as borrow and spoil areas. If SCS determines that routes of ingress and egress are dictated by certain factors, such as environmental factors, the routes shall be included in the landrights work map. Otherwise the map shall contain a statement that the acquiring agency will determine routes of ingress and egress and acquire the necessary rights for such routes. A landrights work map index shall be included on the landrights work map to be used as a checklist. The index is to show the

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.704(a)

ownerships and rights needed as a minimum. Exhibit 104I-70.1117 can be used for guidance. The landrights map and all updates must show the state conservationist's approval.

(b) All right-of-way boundaries regardless of purpose, other than unspecified locations for rights of ingress and egress, must be shown on the landrights work map. Estimates prepared for bid purposes by construction contractors will be affected by the width and location of rights-of-way. This has a bearing on total installation costs and its distribution between the Federal Government and the acquiring agency. Also, the maintenance effort and cost will be influenced by this factor.

(c) After all the landrights have been obtained, SCS shall prepare an up-to-date landrights work map. This work map is provided to the sponsors and the SAO so that adequate on-site and office reviews can be made.

§ 104I-70.704-1 Land acquisition map.

The information shown on the landrights work map § 104I-70.704 shall be expanded to serve as a land acquisition map where SCS is providing financial assistance on landrights. The acquiring agency shall provide such information as actual ownership and boundaries, rights outstanding in third parties, and other features required for the land acquisition process. The acquiring agency and SCS will jointly assign tract numbers as needed.

§ 104I-70.704-2 Tract register.

SCS shall maintain, and the acquiring agency is urged to also maintain, a tract register for each site where SCS will provide financial assistance on landrights. The tract register will show the tract numbers, the names of owners, acres, acquiring agency's appraised value, SCS appraised value, agreed-to value, final purchase price, date of purchase, and the date SCS reimbursed the acquiring agency. In the case of condemnation, the award value, if acceptable, will be shown as the final purchase price. The tract register should be established at the time the acquisition program is initiated and kept up-to-date as the work progresses. See Exhibit § 104I-70.1112.

§ 104I-70.704-3 Numbering of landrights.

(a) SCS and the acquiring agency shall jointly assign a number to each landright acquisition. If the same ownership has two tracts of land which are noncontiguous, separate numbers shall be assigned.

(b) A letter suffix shall be added to each number to indicate the type of acquisition as follows: F, fee simple title; E, easement; L, in-kind contributions; S, subordination agreement; P, permit; M, removal, relocation or modification of existing facilities; and R, abandonment, vacating or closing of public roads. A second letter suffix may be added to indicate how the acquisition was made; that is, C for condemnation, D for direct purchase, X for donations; and A for agreement. These suffixes shall be shown on the

SUBPART 104I-70.9 ACQUIRING AGENCY RESPONSIBILITIES

§ 104I-70.901 General.

104I-70.902(a)

(a) The acquiring agency must acquire all landrights needed for the investigation and survey, installation, operation, maintenance, and inspection of works of improvement to be installed with Federal financial assistance from SCS on nonfederal lands. Needed landrights may also include downstream rights which may be required as a result of changed streamflow characteristics, such as extended flooding of low water crossings, or more than negligible flood damage to property, and landrights necessary for the diversion of water.

(1) The landrights must be acquired in conformance with the requirements of SCS as set forth in this part.

(2) The landrights necessary for work to be performed under a project agreement must be acquired prior to execution of the project agreement.

(3) All considerations paid by the acquiring agency for landrights acquired shall be without cost to SCS, except as provided in Subpart 104I-70.6.

(4) All other costs incurred by the acquiring agency in acquiring landrights shall be without cost to SCS, except as provided in 104I-70.603-1 with respect to joint appraisals. "Other costs" include such costs as appraisals ordered by the acquiring agency for its own use, title evidence, recording fees, U.S. Revenue stamps and other State and local transfer costs, legal fees, salaries and travel of its employees, and those costs described in 104I-70.307 and 104I-70.208(c).

(b) To satisfy its responsibility and meet the requirement of SCS the acquiring agency must:

- (1) Make property boundary surveys when required;
- (2) Conduct negotiations;
- (3) Make any title search determined by it to be needed;
- (4) Determine the legal sufficiency of all landrights instruments; and
- (5) Obtain legal advice and assistance.

§ 104I-70.902 Evidence of title

(a) The acquiring agency must obtain adequate evidence of title with respect to all landrights for which Federal cost sharing assistance is to be made available. A title opinion by a qualified lawyer, a certificate of title by a title company, or a title insurance policy by an insurance corporation, in a form satisfactory to SCS, will constitute acceptable evidence of title. The title evidence should show all encumbrances, defects, and other matters, either of record or otherwise known, which impair or adversely affect the title to landrights.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.902(b)

(b) Before any landrights are conveyed to the acquiring agency, the title evidence must be submitted to SCS and then forwarded to the field office of the Office of the General Counsel for review and approval, or for advice as to any curative action that needs to be taken. The acquiring agency shall be informed of any required curative action. After curative action has been taken, evidence of such action shall be submitted to SCS for forwarding to the field office of the Office of the General Counsel for determination as to the adequacy of the action.

(c) When the title evidence has been approved by the field office of the Office of the General Counsel, the acquiring agency may proceed with the acquisition. After the acquisition has been closed, title evidence showing that a marketable title to the landrights is vested in the acquiring agency shall be submitted to SCS for forwarding to the field office of the Office of the General Counsel for final legal approval. No financial assistance shall be made available to the acquiring agency until such final legal approval has been obtained. However, financial assistance may be made available to the acquiring agency concurrent with the closing of the acquisition if the closing is attended by a representative of the field office of the Office of the General Counsel and legal approval is given at that time.

§ 104I-70.903 Acquisition in excess of site requirements.

The acquiring agency may, under certain circumstances, decide to buy an entire ownership rather than only that part needed with the idea of later selling the excess land or using it for future expansion or other purposes. SCS may provide financial assistance only on the landrights approved for financial assistance in the program agreement. This does not exclude financial assistance for the purchase of uneconomic remnants.

§ 104I-70.904 Construction permits.

As a condition precedent to obtaining Federal financial assistance from SCS for the installation of structural project measures, the sponsor must acquire without cost to the Federal Government such construction permits, pursuant to Federal, State or local law, as may be needed in the installation, operation and maintenance of structural measures. The sponsor must:

- (a) Obtain legal advice and assistance as needed.
- (b) Determine the construction permits that are needed.
- (c) Conduct all negotiations necessary to acquire needed construction permits.
- (d) Certify to SCS in writing that all necessary construction permits have been acquired. Each certificate shall cover only the permits needed for the project measure items to be included in any one project agreement.

SUBPART 104I-70.9 ACQUIRING AGENCY RESPONSIBILITIES

104I-70.908(a)

§ 104I-70.905 Water rights.

As a condition precedent to providing Federal financial assistance for the installation of project measures SCS requires that sponsors shall acquire, or provide assurance that landowners or water users have acquired, such water rights, pursuant to State law, as may be needed in the installation and operation of the project measures. To meet this requirement, it is the responsibility of the sponsors to:

- (a) Obtain legal advice and assistance as needed.
- (b) Determine the water rights that are needed.
- (c) Conduct all negotiations when the sponsors will acquire any needed water rights.
- (d) Take appropriate action to determine that landowners and water users have acquired needed water rights.
- (e) Certify to SCS on Form SCS-AS-78 that all necessary water rights have been acquired. Each certificate shall cover only the rights needed for the project measures included in any one project agreement.

§ 104I-70.906 Removal, relocation, and salvaging of utilities and similar items.

The acquiring agency must arrange for the removal, relocation, or salvaging of public utilities, buildings, roads, pipelines, and similar items which are not to be abandoned, and the relocation or reconstruction of fences and see that such arrangements are carried out at a time and in a manner that will avoid interference with the contractor.

§ 104I-70.907 Certifications - installation of project measures.

(a) The acquiring agency must certify to SCS on Form SCS-AS-78 that all necessary interests in real property have been acquired. Each certification shall cover only the real property needed for the project measures to be included in any one project agreement. A copy of each real property instrument covered by the certification must be furnished SCS with or prior to the submission of the Form SCS-AS-78.

§ 104I-70.908 Performance reports.

(a) The acquiring agency shall submit a performance report to SCS indicating the status of the acquisition program for Group A landrights covered in the landrights agreement. Performance reports shall be prepared and furnished on a quarterly basis briefly presenting the following information:

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.908(a)(1)

(1) A comparison of the number of acquisitions completed to the number planned for acquisition during the report period.

(2) Reasons for delays where goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of increased costs.

(b) The acquiring agency shall inform SCS immediately when an event occurs which will have significant impact on the project or the land acquisition program. Such instances are to be reported as soon as the following types of conditions become known:

(1) Problems, delays and adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of schedules and goals, or preclude the completion of the landrights acquisition program within the established time frame. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to help resolve the situation.

(2) Favorable developments or events which will enable meeting schedules and goals sooner than anticipated or which will entail significantly less expenditure than originally projected.

SUBPART 104I-70.10 DOCUMENTATION AND DISTRIBUTION  
OF RECORDS

104I-70.1003(a)(5)

§ 104I-70.1001 General.

Papers which will usually be filed by the state office to evidence the landrights acquired by the acquiring agency for the purpose of installing project measures and to support the related assistance and review activities of SCS are:

- (a) One copy of the SCS-AS-78;
- (b) Condemnation agreements, when applicable;
- (c) A copy of each landrights instrument covered by the SCS-AS-78;
- (d) The 404 permit or the determination with supporting documentation by the sponsor(s) that the project is covered by the national permit, or is not needed;
- (e) The updated landrights work map;
- (f) The administrative statement (104I-70.1002) or memorandum (104I-70.1003); and
- (g) The land treatment certifications (104I-70.8).

§ 104I-70.1002 Project agreements signed in  
state office.

The landrights file on project agreements signed in the state office must be supported by an administrative statement to the effect that the landrights instrument have been checked in the state office, and all landrights policies and requirements of SCS have been met. If this statement cannot be made without qualification, describe each exception, and give the reasons for not taking correction action. Occasionally a landrights instrument may be deficient in some manner. In such case, if it is determined that the deficiency is not fatal, the administrative statement must set forth why such deficiency was considered not fatal.

§ 104I-70.1003 Project agreements signed in N.O.

- (a) Project agreements to be signed in the N.O. must be accompanied by:
  - (1) A copy of the SCS-AS-78;
  - (2) One copy of each landrights instrument covered by SCS-AS-78;
  - (3) A copy of the 404 permit or the determination (with supporting documentation) by the sponsors that the project is covered by the national permit;
  - (4) One copy of the condemnation agreements when applicable;
  - (5) A copy of the updated landrights work map;

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1003(a)(6)

(6) A memorandum to the effect that the landrights instruments have been checked in the state office, and all landrights policies and requirements of SCS have been met. If this statement cannot be made without qualification, describe each exception, giving recommendations for handling each, and reasons for the recommendations;

(7) One copy of the operation and maintenance agreement; and

(8) The land treatment certifications in part 104I-70.8.

(b) The documents listed above will be returned to the state office after the project agreement has been signed.

§ 104I-70.1101 Easement (for use when the easement is donated).

EASEMENT

For and in consideration of One Dollar (\$1.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged,

\_\_\_\_\_ of \_\_\_\_\_  
(Name)

\_\_\_\_\_, Grantor, does hereby grant, bargain,  
(Address)  
sell, convey and release unto \_\_\_\_\_ of  
(Name)

\_\_\_\_\_, Grantee, its successors  
(Address)

assigns, an easement in, over and upon the following described land situated  
in the County of \_\_\_\_\_, State of \_\_\_\_\_,  
to wit:

for the purpose of:

(See Exhibit 104I-70.1105 for recommended wording to be inserted here  
depending on the purpose for which the easement is to be acquired.)

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1101-2

1. In the event construction of the above described works of improvement is not commenced within \_\_\_\_\_ from the date hereof, the rights and privileges herein granted shall at once revert to and become the property of the Grantor, his heirs and assigns.

2. This easement includes the right of ingress and egress at any time over and upon the above described land of the Grantor and any other land of the Grantor adjoining said land.

3. There is reserved to the Grantor, his heirs and assigns, the right and privilege to use the above described land of the Grantor at any time, in any manner and for any purpose not inconsistent with the full use and enjoyment by the Grantee, its successors and assigns, of the rights and privileges herein granted.

4. The Grantee is responsible for operating and maintaining the above described works of improvement.

5. Special provisions:

TO HAVE AND TO HOLD the aforesaid easement in, over and upon the above described land of the Grantor, with all the rights, privileges and appurtenances thereto belonging or in anywise appertaining, unto the Grantee, its successors and assigns, forever.\*

IN WITNESS WHEREOF the Grantor has executed this instrument on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
(Signature of Grantor) (SEAL)

\_\_\_\_\_  
(Signature of Grantor) (SEAL)

Certificate of acknowledgment or other proof of execution as provided by State law.

\*When the term of the easement is less than perpetual change "forever" to "for the term granted herein."

SUBPART 104I-70.11 EXHIBITS

104I-70,1102-1

§ 104I-70.1102 Easement (for use when the easement is to be purchased).

EASEMENT

For and in consideration of \_\_\_\_\_ dollar(s) (\$\_\_\_\_\_) and other good and valuable consideration, the receipt whereof is hereby acknowledged, \_\_\_\_\_ of \_\_\_\_\_  
(Name)

\_\_\_\_\_, Grantor, does hereby grant,  
(Address)

bargain, sell, convey and release unto \_\_\_\_\_  
(Name)

of \_\_\_\_\_, Grantee, its successors and  
(Address)

assigns, an easement in, over and upon the following described land situated in the County of \_\_\_\_\_, State of \_\_\_\_\_, to wit:

For the purposes of:

(See Exhibit 104I-70.1105 for recommended wording to be inserted here depending on the purpose for which the easement is to be acquired.)

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1102-2

1. This easement includes the right of ingress and egress at any time over and upon the above described land of the Grantor and any other land of the Grantor adjoining said land.

2. There is reserved to the Grantor, his heirs and assigns, the right and privilege to use the above described land of the Grantor at any time, in any manner and for any purpose not inconsistent with the full use and enjoyment by the Grantee, its successors and assigns, of the rights and privileges herein granted.

3. The Grantee is responsible for operating and maintaining the above described works of improvement.

4. Special provisions:

TO HAVE AND TO HOLD the aforesaid easement in, over and upon the above described land of the Grantor, with all the rights, privileges and appurtenances thereto belonging or in anywise appertaining, unto the Grantee, its successors and assigns, forever.\*

IN WITNESS WHEREOF the Grantor has executed this instrument on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
(Signature of Grantor) (SEAL)

\_\_\_\_\_  
(Signature of Grantor) (SEAL)

Certificate of acknowledgment or other proof of execution as provided by State law.

\*When the term of the easement is less than perpetual change "forever" to "for the term granted herein."

§ 104I-70.1103 National Engineering Manual, 40-531.40-43.

SUBPART D - DAMS SUBJECT TO DEEP SUBSIDENCE

§ 531.40 General.

(a) The distortion and cracking of earth dam embankments and spillways caused by subsidence is hazardous. The collapse of coal mines, even at great depths, often has caused differential subsidence of several feet at the ground surface. Mining of any layered mineral deposit from beneath the ground surface could have the same result. Subsidence also results from the removal of liquids and gases from beneath the earth's surface.

(b) The special investigations required for the planning and design of dams subject to deep foundation subsidence and the minimum required foundation supports established in this subpart are important in designing safe embankments.

§ 531.41 Scope.

This policy applies where potential foundation subsidence is or could be a threat to the safety of all Class (b) and (c) dams and all Class (a) dams for which the product of storage times effective height of dam is greater than 3,000.

§ 531.42 Layered mineral deposits.

(a) At all sites underlain by layered economic mineral deposits that may be mined in the future, certain minimum foundation support is to be provided for earth embankments and associated spillways. Provision for such support may be accomplished through fee simple title or subordination agreements that insure the legal right to:

(1) Prevent the development or removal of such minerals from unmined areas that would cause subsidence of the structure site, or

(2) Preserve or build and maintain adequate support to insure against future subsidence of the structure foundation for mined areas.

(b) At the ground surface, landrights are to encompass an area which extends outward beyond the base of the dam a horizontal distance equal to the depth of the deepest mineral deposit below the ground surface. This requirement may be modified as a result of a detailed specific site study by, and at the consequent recommendation of, a qualified consulting mining engineer.

(c) Fee simple title or subordination agreements may or may not be required for the area of the reservoir upstream of the dam that is beyond the area required for the stability of the dam. The need for the legal right to control the mining of the reservoir area depends on the following factors:

(1) An evaluation by the sponsors or owners of their possible liability for damage to:

(i) The mine or mining operation caused by flooding, increased pumping costs, a reduction in the amount of mineral that can be removed or other possible damage.

(ii) Surface areas and improvements on the periphery of the reservoir that may subside and thereby suffer increased damage such as damage from inundation or increased flood flow in inlet channels.

(2) An evaluation by the sponsor or owner of the reservoir's ability to function as required for municipal and industrial water supply if it is affected by subsidence.

(3) SCS is to evaluate the reservoir's ability to function as required for purposes for which Federal assistance is contemplated. Such purposes, other than flood prevention, include agricultural water management, recreation, and fish and wildlife management. SCS is to advise the sponsor or owner of the results of this evaluation. SCS will also recommend obtaining the needed landrights.

(d) If any of these problems exist, SCS is to advise the sponsor or owner in writing to:

(1) Seek legal counsel and the recommendations of a qualified mining engineer to help decide on the extent of the risk the sponsor or owner should assume.

(2) Consider purchasing necessary landrights to protect against possible damage suits.

(3) Consider the feasibility of taking easements to an elevation higher than normal by an amount equal to or greater than the anticipated subsidence.

(e) SCS is to make available to the sponsor or owner all of its data pertinent to the subsidence problem and the proposed dam.

§ 531.43 Liquid or gaseous deposits.

(a) The removal of liquid or gaseous deposits (such as petroleum, water, and gas) from beneath the earth's surface may produce serious subsidence problems that are related to the geology of the source formations and the formations between the source and the earth's surface. Abrupt differential settlements, which are of most concern are usually associated with faults or other potential planes of weakness in these formations.

(b) Liquid or gaseous deposits present special problems not usually associated with solid minerals. Subordination of mineral rights within a limited area at the site does not insure prevention of subsidence of the structure. Therefore a careful study of the geology of the site is necessary to determine its suitability.

(c) During project planning, vigorous inquiry is to be made to determine any possible effects the removal of such deposits might have on dams to be designed and built under SCS auspices. If studies indicate that subsidence may induce a degree of differential settlement that design cannot compensate for, the site is to be abandoned and more stable sites must be located or objectives must be accomplished by a system of structures other than dams.

§ 104I-70.1104 Subordination Agreement - General.

SUBORDINATION AGREEMENT

On this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_,

the undersigned, being the holder of a mortgage, deed of trust, or other lien recorded in the Office of the \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, in Book \_\_\_\_\_ at page \_\_\_\_\_ now outstanding against all or part of the land described in the easement executed on \_\_\_\_\_ 19\_\_\_\_, by \_\_\_\_\_ (Name of Grantors of Easement) to \_\_\_\_\_ (Name of Sponsors), for the purpose of \_\_\_\_\_

| \_\_\_\_\_ (Same Purpose as is Stated in the Easement - See Exhibit 104I-70.1105) \_\_\_\_\_

\* in consideration of the benefits to accrue to the land described in said recorded instrument, hereby agrees that said lien is and shall be subject and subordinate to the rights and privileges granted by said easement.

\_\_\_\_\_

(Acknowledgment)

§ 104I-70.1105 Purpose clauses.

RECOMMENDED WORDING FOR PURPOSE CLAUSE IN EASEMENTS

<u>Purpose of Easement</u>	<u>The Clause</u>
Both Construction of Dam and Impoundment of Water	For or in connection with the construction, operation, maintenance, and inspection of a floodwater retarding structure, designated as site _____ in the plans for _____ Watershed, to be located on the above described land; for the flowage of any waters in, over, upon, or through such structure; and for the permanent storage and temporary detention, either or both, of any waters that are impounded, stored or detained by such structure.
Impoundment of Water Only	For the permanent storage and temporary detention, either or both, of any waters that are impounded, stored, or detained, and for the maintenance and inspection of areas to be flooded by floodwater retarding structure, designated as site _____ in the plans for _____ Watershed, to be located on the _____ farm.
Channel Improvement Only	For or in connection with construction necessary to improve the _____ channel located on the above described lands, for or in connection with the operation, maintenance, and inspection of such channel; and for the flowage of any waters in, over, upon or through such channel.
Diversion of Water from Spillway	For the flowage of any waters on, over, and upon the above described land which is caused by or results from the construction of a floodwater retarding structure, designated as site _____ in the watershed work plan for _____ Watershed, County of _____, State of _____.
Low Water Crossings on Private Roads	For increasing the flowage of water in (Stream) _____ where it passes over the low water crossing of the private road located on the above described land, it being understood that such increased flowage of water, resulting from the storage or detention of runoff in the floodwater retarding structure designated as site _____ in the watershed work plan for _____ Watershed, County of _____, State of _____, will cause said low water crossing to be unusable for an indeterminate length of time during and after periods of precipitation.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1105-2

Downstream Flooding

For the inundation or flooding of the above described land by floodwaters caused by or resulting from the channel improvement work on the \_\_\_\_\_ channel, designated as \_\_\_\_\_ in the watershed work plan for the \_\_\_\_\_ Watershed, County of \_\_\_\_\_, State of \_\_\_\_\_.

§ 104I-70.1102 Easement (for use when the easement is purchased).

EASEMENT

For and in consideration of \_\_\_\_\_ dollar(s) (\$\_\_\_\_\_) and other good and valuable consideration, the receipt whereof is hereby acknowledged,

\_\_\_\_\_ of \_\_\_\_\_  
(Name)

\_\_\_\_\_, Grantor, does hereby grant, bargain,  
(Address)

sell, convey and release unto \_\_\_\_\_  
(Name)

of \_\_\_\_\_, Grantee, its successors and  
(Address)

assigns, an easement in, over and upon the following described land situated in the County of \_\_\_\_\_, State of \_\_\_\_\_, to wit:

For the purposes of:

(See Exhibit 104I-70.1105 for recommended wording to be inserted here depending on the purpose for which the easement is to be acquired.)

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1102-2

1. This easement includes the right of ingress and egress at any time over and upon the above described land of the Grantor and any other land of the Grantor adjoining said land.

2. There is reserved to the Grantor, his heirs and assigns, the right and privilege to use the above described land of the Grantor at any time, in any manner and for any purpose not inconsistent with the full use and enjoyment by the Grantee, its successors and assigns, of the rights and privileges herein granted.

3. The Grantee is responsible for operating and maintaining the above described works of improvement.

4. Special provisions:

TO HAVE AND TO HOLD the aforesaid easement in, over and upon the above described land of the Grantor, with all the rights, privileges and appurtenances thereto belonging or in anywise appertaining, unto the Grantee, its successors and assigns, forever.\*

IN WITNESS WHEREOF the Grantor has executed this instrument on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
(Signature of Grantor) (SEAL)

\_\_\_\_\_  
(Signature of Grantor) (SEAL)

Certificate of acknowledgment or other proof of execution as provided by State Law.

\*When the term of the easement is less than perpetual change "forever" to "for the term granted herein."

§ 104I-70.1103 Engineering Memorandum No. 60.

ENG- 60

UNITED STATES DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE  
Washington, D. C. 20250

May 20, 1966

ENGINEERING MEMORANDUM-60

Re: Policy for Dams Subject to Deep Subsidence Caused by Removal of Mineral Deposits

Purpose

This memorandum sets forth Soil Conservation Service policy on:

1. The planning and design of dams subject to deep subsidence.
2. The land rights required where subsidence is a factor.

This policy applies where potential foundation subsidence is or could be a threat to the safety of:

1. All class (b) and (c) dams.
2. Class (a) dams for which the product of height and storage capacity, as defined in Engineering Memorandum-27, exceeds 3000.

The distortion and cracking of an earth dam embankment and spillways caused by subsidence is hazardous to the safety of such structures.

The collapse of coal mines, even at great depths, has caused differential subsidence of several feet at the ground surface in numerous cases. Mining of any layered mineral deposit from beneath the ground surface could have the same result.

Subsidence also occurs due to the removal of liquids and gases from beneath the earth's surface. For these materials, subsidence is more directly related to the geology of the site. In such cases, differential subsidence is usually associated with faults or some other geologic weakness in the rock structure between the zone of removal and the ground surface.

Certain land rights are required to cover the above situations.

1. Layered Mineral Deposits--Where layered mineral deposits, such as coal, salt, sulphur, gypsum, or iron ore, of present or possible future commercial value within the planned lifetime of the project, exist at a site the land rights outlined below must be obtained before the dam can be built.

STC  
EWP  
WD  
DTR

ENG-60

To provide support for the earth dam embankment and associated spillways, the sponsor or owner will have either fee simple title or subordination agreements which will insure the legal right to:

1. Prevent the development or removal of such minerals from unmined areas that would cause subsidence of the structure site.
2. Preserve, or build and maintain adequate support to insure against future subsidence of the structure foundation for mined areas.

At the ground surface, these land rights will encompass an area which extends outward beyond the base of the dam, a distance equal to the depth of the lowest of such a mineral deposit below the ground surface. This requirement may be modified on the basis of detailed specific site studies by, and consequent recommendation of, a qualified consulting mining engineer.

Fee simple title or subordination agreements may or may not be required for the area of the reservoir upstream of the dam that is beyond the area required for the stability of the dam. The need for the legal right to control mining the reservoir area depends upon:

1. An evaluation by the sponsor or owner of their possible liability for damage to:
  - A. The mine or mining operations due to:
    - (1) flooding
    - (2) increased pumping costs
    - (3) a reduction in the amount of mineral that can be safely mined
    - (4) other possible damage
  - B. Surface areas and improvements on the periphery of the reservoir which may subside and thereby suffer increased damage due to:
    - (1) inundation
    - (2) floodflow in inlet channels
    - (3) other possible damage

ENG -60

2. An evaluation of the reservoir's ability to function as required for municipal and industrial water supply as possibly affected by subsidence. The sponsor or owner will make this evaluation.
3. The Service will evaluate the reservoir's ability to function as required for purposes for which Federal assistance is contemplated. Such purposes, other than flood prevention, include: agricultural water management, recreation, and fish and wildlife management. The Service will advise the sponsor or owner of the results of this evaluation. The Service will also recommend that the needed land rights be obtained where they are thought to be necessary for these purposes.

Where any of the above problems may exist, the Service will advise the sponsor or owner, in writing, to:

1. Seek legal counsel and the recommendations of a qualified mining engineer to help them decide on the extent of the risk they should assume.
2. Consider the purchase of the necessary land rights to provide for their protection against possible damage suits.
3. Consider the feasibility of taking easements to an elevation higher than normal by an amount equal to or greater than the anticipated subsidence.

The Service will make available to the sponsor or owner all its factual data pertinent to the subsidence problem and the proposed dam.

2. Liquid and Gaseous Deposits--The removal of liquid and gaseous deposits (such as petroleum, water, and gas) from beneath the earth's surface can and has produced serious subsidence problems. The character of subsidence in this case is related to the geology of the source formations and the formations between the source and the earth's surface. Abrupt differential settlements, which are of most concern are usually associated with fault lines or other potential planes of weakness in these formations.

Liquid or gaseous deposits present special problems not usually associated with solid minerals. Subordination of mineral rights within a limited area at the site will not assure prevention of subsidence of the structure. Therefore, the determination of the suitability of a given site must be

ENG -60

based on a careful study of the geologic structure of the site. During project planning vigorous inquiry must be made to determine any possible effects the removal of such deposits might have on dams to be designed and built under Service auspices. Where studies indicate that subsidence may induce a degree of differential settlement that cannot be reliably compensated for in design, the site must be abandoned. In such cases either more stable sites must be located or project objectives must be accomplished by a system of structures other than dams.

A handwritten signature in cursive script, appearing to read "D. Williams".

§ 104I-70.1104 Subordination Agreement - General.

SUBORDINATION AGREEMENT

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the undersigned, being the holder of a mortgage, deed of trust, or other lien recorded in the office of the \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, in Book \_\_\_\_\_ at page \_\_\_\_\_ now outstanding against all or part of the land described in the easement executed on \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ (Name of Grantors of Easement) to \_\_\_\_\_ (Name of Sponsor), for the purpose of \_\_\_\_\_ (Same Purpose as it Stated in the Easement - See Exhibit 104I-70.1105)

in consideration of the benefits to accrue to the land described in said recorded lien instrument, hereby agrees that said lien is and shall be subject and subordinate to the rights and privileges granted by said easement.

\_\_\_\_\_  
 (Acknowledgment)

## § 104I-70.1105 Purpose clauses.

## RECOMMENDED WORDING FOR PURPOSE CLAUSE IN EASEMENTS

<u>Purpose of Easement</u>	<u>The Clause</u>
Both Construction of Dam and Impoundment of Water	For or in connection with the construction, operation, maintenance, and inspection of a floodwater retarding structure, designated as site _____ in the plans for _____ Watershed, to be located on the above described land; for the flowage of any waters in, over, upon, or through such structure; and for the permanent storage and temporary detention, either or both, of any waters that are impounded, stored or detained by such structure.
Impoundment of Water Only	For the permanent storage and temporary detention, either or both, of any waters that are impounded, stored, or detained, and for the maintenance and inspection of areas to be flooded by floodwater retarding structure, designated as site _____ in the plans for _____ Watershed, to be located on the _____ farm.
Channel Improvement Only	For or in connection with construction necessary to improve the _____ channel located on the above described lands, for or in connection with the operation, maintenance, and inspection of such channel; and for the flowage of any waters in, over, upon or through such channel.
Diversion of Water from Spillway	For the flowage of any waters on, over, and upon the above described land which is caused by or results from the construction of a floodwater retarding structure, designated as site _____ in the watershed work plan for _____ Watershed, County of _____, State of _____.
Low Water Crossings on Private Roads	For increasing the flowage of water in <u>(Stream)</u> where it passes over the low water crossing of the private road located on the above described land, it being understood that such increased flowage of water, resulting from the storage or detention of runoff in the floodwater retarding structure designated as site _____ in the watershed work plan for _____ Watershed, County of _____, State of _____, will cause said low water crossing to be unusable for an indeterminate length of time during and after periods of precipitation.
Downstream Flooding	For the inundation or flooding of the above described land by floodwaters caused by or resulting from the channel improvement work on the _____ channel, designated as _____ in the watershed work plan for the _____ Watershed, County of _____, State of _____.

SCS DIRECTIVES SYSTEM SUBTITLE C

Soil Conservation Service Property Management Regulations  
(Amendment A-6, November 1977)

SCSPMR-7047

§ 104I-70.1106 Form SCS-AS-78.

SCS-AS-78  
Rev. 4-72

PROGRAM \_\_\_\_\_

UNITED STATES DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

CERTIFICATION  
RELATING TO  
LAND RIGHTS, WATER RIGHTS (\*), AND CONSTRUCTION PERMITS  
FOR THE

\_\_\_\_\_ WATERSHED

STATE OF \_\_\_\_\_

The undersigned \_\_\_\_\_  
(Name of Local Organization)

and \_\_\_\_\_  
(Name of Local Organization)

having agreed to a watershed work plan for the above designated watershed, hereby certify that :

1. Adequate land rights (including permits to use land) and water rights (\*) needed for the installation, operation, maintenance and inspection of the works of improvement described as follows have been acquired :

The land rights were acquired in compliance with the requirements of the U. S. Department of Agriculture Regulations, Title 7, Part 21, of the Code of Federal Regulations; and all relocation payments and relocation assistance advisory services required by said regulations because of the acquisition of these land rights have been provided or will be provided until all persons displaced by these acquisitions have been properly relocated.

2. The legal instruments by which the land rights were acquired have been properly signed, acknowledged, and recorded.
3. A copy of each land rights instrument not previously furnished to the Soil Conservation Service is attached.
4. All construction permits required by State or local law have been acquired.

-----  
\* Including storage rights where applicable.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1106-2

5. Only the following (i.e., utilities, roads, etc.) that would interfere with the construction, inspection, operation and maintenance of the works of improvement described herein remain to be salvaged or relocated. The arrangements made for the salvaging or relocating, and the time such work will be accomplished is as indicated below:

The Local Organization(s) recognizes that any excess costs resulting from the inadequacy of any rights certified to herein are the responsibility of the local organization(s).

\_\_\_\_\_  
(Name of Local Organization)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

This action authorized  
at an official meeting of

\_\_\_\_\_ on \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_,

at \_\_\_\_\_,

State of \_\_\_\_\_.

Attest: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name of Local Organization)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

This action authorized  
at an official meeting of

\_\_\_\_\_ on \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_,

at \_\_\_\_\_,

State of \_\_\_\_\_.

Attest: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

8 104I-70.1107 Proposed Standard Form 260.

FORM APPROVED O.M.B. NO. 80-R0188

**APPLICATION FOR REIMBURSEMENT OF EXPENSES INCIDENTAL TO CONVEYANCE OF REAL PROPERTY**

Items 1, 2 and 3 to be completed by agency.

1. PROJECT

2. AGENCY NAME AND ADDRESS (Include ZIP code)

3. IDENTIFICATION NO.

**INSTRUCTIONS**

Title III of Public Law 91-646 provides for reimbursement of expenses incurred by owner(s) of property for costs incurred incidental to conveyance of their real property. The following is a list of items for which you may claim reimbursement. Please show amount for Items 5A through 5F as appropriate and date and sign Items 6A through 6D. The amount shown by you must be validated by copy of appropriate receipts.

**4. LOCATION OF REAL PROPERTY ACQUIRED**

4A. ADDRESS (Include ZIP code)

4B. OTHER IDENTIFICATION, AS APPROPRIATE

4C. NAME(S) OF OWNER(S) (1)

(2)

**5. INCIDENTAL EXPENSES**

A. RECORDING FEES ----- \$

B. TRANSFER TAXES -----

C. PENALTY COSTS (For prepayment of pre-existing recorded mortgage) -----

D. PRORATION OF TAXES PAID WHICH ARE ALLOCABLE TO A PERIOD SUBSEQUENT TO VESTING OF TITLE IN THE AGENCY OR EFFECTIVE DATE OF POSSESSION BY THE AGENCY, WHICHEVER IS EARLIER. -----

E. OTHER (Explain)

F. TOTAL AMOUNT (Sum of Items 5A through 5E) ----- \$

I (We) CERTIFY under the penalties and provisions of U.S.C. Title 18, Sections 286, 287, and 1001, and any other applicable law, that this claim and information submitted herewith have been examined by me (us) and are true, correct, and complete. I (We) further certify that I (we) have not submitted any other claim for, or received, reimbursement or compensation from any other source for any item of this claim, and that any receipts submitted herewith accurately reflect costs actually incurred.

**6. OWNER(S)**

6A. SIGNATURE	6B. DATE	6C. SIGNATURE	6D. DATE
---------------	----------	---------------	----------

**PENALTY FOR FALSE OR FRAUDULENT STATEMENT**  
 U.S.C. Title 18, 1001, provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies . . . or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

PROPOSED STANDARD FORM 260 (7-72)  
 GENERAL SERVICES ADMINISTRATION

§ 104I-70.1108 Installation permit.

INSTALLATION PERMIT

The undersigned hereby grants permission to \_\_\_\_\_,  
Permittee, for the installation of the following works of improvement:

on the following described lands:

subject to the following conditions:

1. Installation of said works of improvement shall be commenced within \_\_\_\_\_ months from the date of this permit.
2. This permit shall include the right of ingress and egress at any time over and upon said lands and any adjoining lands owned by the undersigned.
3. Operation and maintenance of the described works of improvement will be performed by the undersigned in accordance with appropriate agreement with the Permittee.

\_\_\_\_\_  
(Date of Permit)

\_\_\_\_\_  
(Signature of Landowner)

SUBPART 104I-70.11 EXHIBITS

104I-70.1109-1

§ 104I-70.1109 General permit.

PERMIT

The undersigned hereby grants permission to the \_\_\_\_\_  
(Name of Local Organization)

its employees, agents, contractors, and cooperating parties, such as the Soil Conservation Service of the U.S. Department of Agriculture, to enter upon the following described lands:

for the following purposes:

\_\_\_\_\_  
(Date of Permit)

\_\_\_\_\_  
(Signature of Landowner)

§ 104I-70.1110 Form SCS-AS-540.

SCS-AS-540  
REV. 7-71

U.S. DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

AGREEMENT

\_\_\_\_\_  
State of \_\_\_\_\_

(hereinafter referred to as the Local Organization)

and the

SOIL CONSERVATION SERVICE  
United States Department of Agriculture  
(hereinafter referred to as the Service)

Whereas, the Local Organization has instituted condemnation proceedings  
in the \_\_\_\_\_ Court,  
County of \_\_\_\_\_, State of \_\_\_\_\_, entitled  
\_\_\_\_\_ vs. \_\_\_\_\_, Case No. \_\_\_\_\_,  
\_\_\_\_\_ vs. \_\_\_\_\_, Case No. \_\_\_\_\_,  
\_\_\_\_\_ vs. \_\_\_\_\_, Case No. \_\_\_\_\_,

to acquire an interest in land needed for the installation of works of improvement in connection  
with the \_\_\_\_\_ Watershed Project in said State; and

Whereas, an order of possession has been entered by the court giving the Local Organization the  
right to enter upon and take possession of the land involved in the condemnation proceedings for  
the purposes described therein, or a judgment has been entered by the court vesting title to the  
interest in land in the Local Organization, a certified copy of which order of possession or judg-  
ment is attached hereto and made a part hereof.

Now, Therefore, in consideration of the Service consenting to the commencement of the installation  
of the works of improvement on said land prior to the time the title to the interest therein is  
irrevocably vested in the Local Organization, and for other valuable considerations, it is hereby  
agreed that the Local Organization will prosecute the condemnation proceedings to a final conclu-  
sion and will pay into the court or to the appropriate landowner, as may be required by law, such  
damages as are finally awarded by the court for the taking of the needed interest in the land.

(over)

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1110-2

In witness whereof, this agreement has been executed by the Local Organization and the Service on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The signing of this agreement was authorized by a resolution of the governing body of the

\_\_\_\_\_  
\_\_\_\_\_

adopted at a meeting held on

\_\_\_\_\_, 19\_\_\_\_\_

\_\_\_\_\_  
Secretary

Date \_\_\_\_\_

\_\_\_\_\_  
(Local Organization)

By \_\_\_\_\_

Title \_\_\_\_\_

Soil Conservation Service  
United States Department of Agriculture

By \_\_\_\_\_

Title \_\_\_\_\_

§ 104I-70.1111 Landrights agreement.

STATE 1  
WATERSHED OR RC&D MEASURE 2  
CONTRACT NO. 3

UNITED STATES DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

LANDRIGHTS AGREEMENT

THIS AGREEMENT, ENTERED INTO THIS 4 day of 4, 194,  
by and between the 5, (a local sponsor  
of the above cited watershed or RC&D measure) called the Acquiring Agency, and  
the Soil Conservation Service, United States Department of Agriculture, called  
the Service.

WITNESSETH THAT:

WHEREAS, under the provisions of 6  
the Local Sponsor(s) and the Service have entered into a program agreement  
for the above watershed or RC&D measure, which provides for the installation  
of certain works of improvement;

WHEREAS, in said program agreement the Acquiring Agency has agreed to operate  
and maintain an area, identified in Paragraph A hereof, as a project 7  
development, called the Development; 8

WHEREAS, the Service is authorized to share with the Acquiring Agency certain  
of the costs of land, easements, and rights-of-way, subordinations, and  
removals, relocations and modifications of existing facilities, called  
landrights, acquired for the Development by the Acquiring Agency. 9

NOW, THEREFORE, the Acquiring Agency and the Service agree as follows:

A. The individual landrights eligible for Federal cost sharing constitute  
10, located 10,  
and are listed in Attachment No. 1 hereto. 11

B. The individual landrights to be acquired by the Acquiring Agency to be:

1. Processed and cost shared under this agreement are listed in Group A  
of Attachment No. 1. The total cost of these landrights is estimated to be  
\$ 12. The Federal share of this cost is estimated to be \$ 13.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1111-2

2. Processed and cost shared under the terms and conditions of an appropriate but separate agreement as provided in E.2 hereof are listed in Group B of Attachment No. 1. (14)

C. The Service will:

1. Inform the Acquiring Agency of the requirements of the Service and the responsibilities of the Acquiring Agency which must be met to provide satisfactory assurance to the Service of the adequacy of the landrights acquired. (15)

2. Furnish to the Acquiring Agency any information, such as surveys, maps estimated acreage by apparent ownerships, which the Service may have available for its own use and the Acquiring Agency needs in connection with the acquisition of landrights. (16)

3. Advise and consult with the Acquiring Agency in connection with its landrights acquisition activities under this agreement. (17)

4. Cost share on individual landrights listed in Group A of Attachment No. 1 on the basis of (18) percent of the:

a. Price paid by the Acquiring Agency or the value jointly determined by the Acquiring Agency and the Service, whichever is the lesser amount.

b. Amount of damages awarded by the court under condemnation proceedings. However, if the Service considers the award excessive and the Acquiring Agency does not agree or fails to exercise any appeals available to it, which the Service considers to be necessary, the cost sharing shall be based on the value jointly determined by the Acquiring Agency and the Service. (19)

c. Fair market value established by the Service when the Acquiring Agency and the Service cannot jointly agree on the value.

5. Recognize as an in-kind contribution land presently owned by and land donated in fee title to the Acquiring Agency which is eligible for use in the project. These eligible properties and their values are listed in Group C of Attachment No. 1. Credit will be given for (18) percent of the determined value of these properties. This credit may be applied against expenses as they are incurred in purchase of land and installation of the project facilities for public fish and wildlife and/or recreation purposes. (20)

D. The Acquiring Agency will:

1. Acquire in accordance with the requirements of the Service all landrights needed for the Development. (21)

2. Pay all cost of landrights that are not cost shared by the Service.

3. Be responsible for the full cost of appraisals ordered by it for its use, title evidence, recording fees, U.S. Revenue stamps and other State and local costs, legal fees, salaries and travel of its employees, such as clerical and negotiators, and other associated costs incurred in acquiring landrights.

4. Operate and maintain the Development and basic facilities for the use of the public generally, and not limit its use to certain segments of the public or organized groups. (22)

5. Not sell or otherwise dispose of any of the landrights or related appurtenances constituting the Development for the evaluated life of the project without the approval of the Service prior to such transaction. For transactions having Service approval, the Acquiring Agency shall reimburse the Service for the Federal share of the sales proceeds at the percentage specified in C.4. hereof in accordance with the Federal Property Management Standards.

6. Use its powers of condemnation whenever the acquisition of any required landrights cannot be obtained by donation, permits, land exchange, or after reasonable and expeditious negotiations for purchase. (19)

7. Submit a performance report to the Service on a quarterly basis indicating the status of acquisitions for landrights listed in Group A of Attachment No. 1. The report shall include information briefly indicating:

a. The number of landrights acquired compared to the number planned for acquiring during the quarter.

b. Reasons for delay where goals were not met.

c. Other pertinent information as felt proper, such as determinations on increased costs.

8. Certify in writing to the Service that land designated as an in-kind contribution has not received prior Federal financial assistance. (20)

9. Comply with the attached Clean Air and Water clause.

E. It is mutually agreed that:

1. The Service and the Acquiring Agency will incorporate in this agreement by supplement hereto upon completion of the evaluation work, the fair market value of each landright listed in Group A of Attachment No. 1. (23)

2. Landrights listed in Group B of Attachment No. 1 will be processed under the terms and conditions of an appropriate but separate agreement between the Service and the Acquiring Agency with the Federal cost sharing percentage to be the same as specified in C.4. hereof. Said separate agreement shall be subject to all of the terms and conditions of this landrights agreement except those specifically identified as applicable only to Group A items. (24)

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1111-4

\*

\*

3. Payment to the Acquiring Agency for the Federal share of the cost of landrights acquired and listed in Group A of Attachment No. 1 may be made periodically. (25)

4. Requests by the Acquiring Agency for payment of the Federal share of the costs incurred in the acquisition of the landrights listed in Group A of Attachment No. 1 will be prepared on SF-270 to be provided by the Service. (26)

5. No Member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

6. The Comptroller General of the United States or his duly authorized representative and accredited representatives of the Department of Agriculture or cognizant audit agency shall, until the expiration of three years after final payment under this agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the displacing agency or any of its subcontractors engaged in the performance of or involving any transaction related to this agreement.

7. The Service may terminate this agreement in whole or in part when the Service determines that the Acquiring Agency has failed to comply with conditions of this agreement. The Service shall promptly notify the Acquiring Agency in writing of the determination, the reasons for terminating, and the effective date. Payments or recoveries made by the Service under this termination shall be in accord with the legal rights and liabilities of the Service and the Acquiring Agency.

8. The Service may temporarily suspend this agreement if the Service determines that corrective action by the Acquiring Agency is needed to meet agreement provisions. The Service also may suspend this agreement when it is evident that a termination is pending.

\_\_\_\_\_  
(Name of Acquiring Agency) This action authorized at an official meeting of \_\_\_\_\_ on \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ State of \_\_\_\_\_.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
(Name)

U.S. Department of Agriculture  
Soil Conservation Service

By: \_\_\_\_\_  
(State Conservationist)

Date: \_\_\_\_\_

Clean Air and Water Clause

(Applicable only if the agreement exceeds \$100,000 or a facility to be used has been the subject of a conviction under the Air Act (42 U.S.C. 1857c-8(c)(1)) or the Water Act (33 U.S.C. 1319(c)(d)) and is listed by EPA or if the agreement is not otherwise exempt.)

A. The Acquiring agency signatory to this agreement agrees as follows:

(1) To comply with all the requirements of section 114 of the Air Act, as amended (42 U.S.C. 1857c-9) and section 308 of the Water Act, as amended (33 U.S.C. 1318), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the signing of this agreement by the Service.

(2) That no portion of the work required by this agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this agreement was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air standards and clean water standards at the facilities in which the agreement is being performed.

(4) To insert the substance of the provisions of this clause in any nonexempt subagreement including this subparagraph (4).

B. The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Air Act, as amended (42 U.S.C. 1857 et seq.).

(2) The term "Water Act" means the Water Act, as amended (33 U.S.C. 1251 et seq.).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 1857c-5(d)), and approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-b(c), (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1111-5(b)

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local Government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an air or water pollution control agency in accordance with the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations, owned, leased, or supervised by a sponsor, to be utilized in the performance of an agreement or subagreement. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are colocated in one geographical area.

## EXPLANATION

- ① Insert the name of the State in which the development or principal part of the development is located.
- ② Insert the name of the watershed or RC&D measure in which the development is located.
- ③ Insert the SCS contract number assigned to the agreement.
- ④ Insert the day, month and year in which the agreement is entered into. This is the effective date of the agreement.
- ⑤ Insert the name of the Acquiring Agency.
- ⑥ Cite the program involved.
- ⑦ Insert the purpose of the development specified in the program agreement, i.e., recreational; fish and wildlife; or recreational and fish and wildlife.
- ⑧ In the event a local sponsor other than the one responsible for landrights acquisition is responsible for operation and maintenance, in lieu of the words, Acquiring Agency, use language similar to the following:  

". . . (name of O&M sponsor), also a local sponsor . . ."
- ⑨ By SCS definition in § 104I-70.002-2 the term "landrights" is all-inclusive. Elsewhere in the agreement when referring to a specific interest to be acquired or a right to be obtained, the appropriate wording for the type of interest or right should be used such as: deed; perpetual easement; temporary easement; permit; subordination agreement; agreement for removal (or relocation or modification).
- ⑩ Insert the identity of the development as set forth in the program agreement such as "Multiple Purpose Structure No. \_\_\_\_\_." The location of the site should be described in such a manner that it may be subsequently found or pinpointed on a map of the area with a minimum of inquiry.
- ⑪ Attachment No. 1 should identify all landrights known to be needed at the time the Landrights Agreement is developed. If a need for change is subsequently determined, the change should be made by amendment to the Landrights Agreement. The attachment should show the tract number, ownership, the number of acres (where appropriate), and nature of the right or interest to be acquired. For Group A items include estimated cost of each landright.
- ⑫ This amount should agree with the total of the items in Group A of Attachment No. 1. Reserves for contingencies are not to be included.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1111-7

- ⑬ This amount should be computed on the basis of the Federal cost sharing percentage as agreed to in the work plan or RC&D measure plan. Reserves for contingencies are not to be included. This amount is that which is to be encumbered in your accounts.

Note: An amendment to change the detailed information in Attachment No. 1 to the agreement may also require amendment of the amount in ⑫ and ⑬.

- ⑭ Do not include in Attachment No. 1 cost estimates for Group B items. The Federal share of the cost of these items are to be encumbered and paid as a landrights cost under authority of the "appropriate but separate agreement." If there are no Group B items, indicate this fact on Attachment No. 1.
- ⑮ The requirements of the Service and the responsibilities of the Acquiring Agency are set forth in §§ 104I-70.2 and 104I-70.6.
- ⑯ See § 104I-70.7.
- ⑰ See § 104I-70.7.
- ⑱ Insert the percentage shown in the work plan or RC&D measure plan for the Federal share of the landrights cost.
- ⑲ When the Acquiring Agency (a) does not have the power of eminent domain or (b) will not agree to use such power, this paragraph is to be omitted.
- ⑳ This paragraph is to be used when in-kind contributions are to be included.
- ㉑ The requirements of the Service are set forth in §§ 104I-70.2 and 104I-70.6.
- ㉒ When the condition described in ⑧ exists, omit this paragraph (D-4).
- ㉓ See § 104I-70.603. The fair market value must be identified in the supplement(s) in such a manner as to be coordinated with the individual landrights listed in Group A of Attachment No. 1 to the Agreement.
- ㉔ Group B items will generally constitute those landrights involving construction activities and engineering services required for actions where (a) title to a facility is retained by the grantor, (b) the granting instrument requires removal, relocation or modification of the facility at the expense of the Acquiring Agency, and (c) this expense is not included in the granting document. See § 104I-70.602-3(b)(2).
- ㉕ When the Acquiring Agency (a) does not have the power of eminent domain or (b) will not agree to use such power, this paragraph must be changed, read in its entirety as follows:

SUBPART 104I-70.11 EXHIBITS

104I-70.1112-1

■ 104I-70.1112 Tract Register (SCS-AS-423).

U. S. DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

TRACT REGISTER  
SCS-423 5-64

TRACT NUMBER	NAME OF OWNERS	ACRES	SIO APPRAISED VALUE	SCS APPRAISED VALUE	AGREED TO VALUE	FINAL PURCHASE PRICE	DATE OF PURCHASE	DATE OF REIMBURSEMENT

SUBPART 104I-70.11 EXHIBITS

104I-70.1113-1

§ 104I-70.1113 Subordination agreement - minerals, etc.

SUBORDINATION AGREEMENT

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

WHEREAS, \_\_\_\_\_, party of the first part, is the  
(name of coal, oil or gas company)

owner and holder of certain outstanding mineral rights in, to and under the following described lands:

including all appurtenant rights of exploration and development, said outstanding mineral rights having been conveyed to the first party by a (deed) (lease) executed on \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_, and recorded in Book \_\_\_\_\_, page \_\_\_\_\_, of the \_\_\_\_\_ records in the County of \_\_\_\_\_, State of \_\_\_\_\_; and

WHEREAS, \_\_\_\_\_, party of the second part, in  
(name of sponsor)

in connection with the construction of the \_\_\_\_\_ watershed project, proposes to construct a certain multiple-purpose dam which may cause the flooding or submersion of all or part of said lands, and also proposes to operate and maintain the reservoir created by said dam, together with certain lands adjacent to said reservoir, as a public recreational development;

NOW, THEREFORE, for and in consideration of the sum of \$\_\_\_\_\_, and other good and valuable considerations, in hand paid by the second part to the first party, the first party does hereby consent, covenant and agree that all of the right, title and interest of the first party, whether freehold, leasehold or otherwise, in and to the coal, oil, gas and other minerals and the right of exploration, removal or development thereof are hereby made subject and subordinate to the right of the second party (1) to construct, operate, and maintain said dam and to flood and submerge all or any part of said lands in connection therewith, (2) to operate and maintain the reservoir created by said dam, and certain lands adjacent to said reservoir, as a public recreational development, (3) to regulate the exploration, development, or removal of said coal, oil, gas or other minerals so as to prevent interference with the use of said reservoir and adjacent lands as a public recreational development, and (4) to approve the type and location of any structure and appurtenances thereto now existing or to be constructed in connection with the exploration, development, or removal of said coal, oil, gas, or other minerals; and the first party does hereby further covenant and agree that any exploration, development, or removal of said coal, oil, gas or other minerals shall be subject to federal and state laws presently existing or hereafter enacted with respect to the pollution of the water of said reservoir.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.1113-2

IN WITNESS WHEREOF, this instrument has been executed by the undersigned this \_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_  
Party of the First Part

\_\_\_\_\_  
Party of the second Part

Acknowledgment -- First Party

Acknowledgment -- Second Party

SCSPMR-7063

Soil Conservation Service Property Management Regulations  
(Amendment A-4, May 1977)

SUBPART 104I-70.11 EXHIBITS

104I-70.1111-8

4. Payment to the Acquiring Agency for the Federal share of the cost of Group A landrights acquired for the site including those listed in Attachment No. 1 to the Landrights Agreement have been acquired or negotiated under the following conditions:

a. All Group A type items whether or not cost shared have been acquired, certified on SF-270, and this form has been received and accepted by the service; and

b. All Group B items have been accomplished, or there are firm arrangements acceptable to the Service for such items with a firm completion date established.

(26) See § 104I-70.604.



SUBPART 104I-70.11 EXHIBITS

104I-70.1115-1

§ 104I-70.1115 Summary showing compliance with 50 percent agreement requirement.

LAND COVERED BY COOPERATIVE AGREEMENTS

(Fifty Percent Requirement)

Rapid Creek Watershed

Structure No. 3

Name of Decision Maker	Acreage Above Retention Reservoir	Farm Acreage and Other Acreage Requiring Treatment	Acreage in Column 3 Under Agreement
Joe Brown Farm	128	128	100
Village of Porter	480	80	80
Robert Jones Farm	480	480	480
Indian Point Park	1040	60	60
Pete Higgins Farm	320	320	320
TOTALS		1068	1040
			$\frac{1040}{1068} = 97\%$

PART 104I-71 RELOCATION ASSISTANCE

104I-71.002-3(a)(4)

§ 104I-71.000 Scope of part.

(a) This part prescribes policies and sets forth implementing procedures for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646 (84 Stat. 1894), herein called the Act. See Exhibit 104I-71.901 for a copy of the Act, which became effective January 2, 1971. This part also incorporates by reference and exhibit Regulations of the U. S. Department of Agriculture pertaining to implementation of the Act within the Department. A copy of the Department regulations as contained in Title 7, Part 21 of the Code of Federal Regulations (7 CFR 21) appears as Exhibit 104I-71.902.

(b) FPMR Subpart 101-6.1, Guidelines for Agency Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, pertains primarily to relocation assistance practices, procedures, and payments by the GSA and is applicable to all federal land acquisition programs.

§ 104I-71.001 Purpose.

These regulations provide for uniform and equitable treatment of persons displaced from their homes, businesses and farm operations by SCS federal financially assisted programs and projects. Any claims made under the Act shall be adjudicated on the basis of regulations in effect when the claim of the displaced person, business, or farm operation was filed with the displacing agency.

§ 104I-71.002 Definitions.

§ 104I-71.002-1 Administrator.

The Administrator of the Soil Conservation Service (SCS), or any individual authorized to act for him.

§ 104I-71.002-2 Acquired dwelling.

A permanent residence from which a displaced person moves as a result of its actual acquisition by the displacing agency.

§ 104I-71.002-3 Business.

(a) Any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property; or

(2) For the sale of services to the public; or

(3) By a nonprofit organization; or

(4) Solely for the purposes of § 104I-71.6, outdoor advertising signs erected and maintained for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property, or services whether or not located on the premises of the foregoing businesses.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.002-3(b)

(b) During the two taxable years prior to displacement, or during such other period as the state conservationist determines to be more equitable, the business as described in § 104I-71.002-3(a)(1)(2) or (3) must have:

- (1) Had average annual gross receipts of at least \$2,000 in value; or
- (2) Had average annual net earnings of at least \$1,000 in value; or
- (3) Contributed at least one-third of the average annual gross income of the owner(s), including income from all sources, such as welfare if any.

(c) A feeder operation shall be considered a business rather than a farm operation when the primary sources of the feed for the livestock or poultry are from other than those controlled by the person engaged in the feeder operation. The physical location of the feeder operation is immaterial.

§ 104I-71.002-4 Comparable replacement dwelling.

A comparable replacement dwelling is one which is decent, safe, and sanitary and is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of Title VIII of the Civil Rights Act of 1968.

(c) In areas not generally less desirable than the dwelling to be acquired in regard to neighborhood conditions, including, but not limited to, municipal services and other environmental factors, and public, commercial, and community facilities. Adverse "environmental factors" include such things as mudslides, open dumps, undermining, flood plains, air pollution odors, smoke or dust, major air pollution generators, septic tank back-ups or sewage hazards (including poorly drained soils or polluted drinking water), rodent or vermin infestations, fire hazards, excessive traffic, and high vibration or impact noises.

(d) Reasonably accessible to the displaced person's place of employment.

(e) Available on the market to the displaced person at rents or prices within the financial means of the displaced person.

(f) Adequate in size to meet the needs of the displaced family or individual. At the option of the displaced person, a replacement dwelling may exceed his need when the replacement dwelling has the approximate square footage as the dwelling from which he was displaced.

§ 104I-71.002-5 Decent, safe, and sanitary.

A dwelling that is clean, in good repair, and in structurally sound and weather-tight condition, which meets local housing codes, if any, and also meets the following requirements:

LAND TREATMENT ABC    TRUCTURES  
(Fifty Percent Adequately Protected Requirement)

Low Flow                      Watershed  
Structure No.        4    

Location of Critical Sediment Source Area	Description	Needs	Completed
Bill Jones Farm	Crop Field #4, sheet eros.	Terraces - 3,000 ft.	2500 ft.
		Grass waterway - 1.5 Ac.	1.5 ac.
		Stab. Structure - 1	1
3 miles of township road east from Farmer Store	Severe road bank erosion	Critical Area Planting - 10.0 Acre	8.0 ac
		Stab. Structure - 3	2
Pete Finn Farm	Pasture field in north end, severe overgrazing and eroding spots	Pasture and Hayland Mgt. -20 Ac.	15
		Pasture and Hayland Planting - 10 Ac.	10 ac.
Faraway City	Newtown subdivision Severe erosion on street right-of-ways and banks	Critical Area Planting - 30 Ac.	20 ac.
Clear Point Park	Active gullies	Stabilization Structure - 3	2
		Diversion - 1,000 ft.	800 ft.

Soil Conservation Service Property Management Regulations  
SCSDS SUBTITLE C    (Amendment A-15, September 1979)

SCSPMR-7066

SUBPART 104I-70.11 EXHIBITS  
104I-70.1116 Summary showing compliance with 50 percent adequately protected requirement.  
104I-70.1116-1

SCSDS SUBTITLE C Soil Conservation Service Property Management Regulations  
 (Amendment A-15, September 1979) SCSPMR-7067

PROJECT: \_\_\_\_\_ SITE: \_\_\_\_\_ SPONSOR (LANDRIGHTS): \_\_\_\_\_

	APPARENT LANDOWNER	APPARENT AREA	RIGHTS NEEDED	DATE ACQUIRED	MINIMUM TYPE OF DOCUMENT
1	O'JANNE, A.	100 ac. 100	survey, investigation permanent flooding, construction, operation maintenance, inspection		permit deed (fee title)
2	CHRISTENSEN, B.	100 10	survey, borrow and permanent flooding survey, temporary flooding		easement or deed easement
3	JOHNSON, C.	15	survey, spillway flowage		easement
4	CURRIN, D.	3	ingress and egress for inspection and maintenance		easement
5	SOUTHERN BELL	10	temporary flooding under power lines		subordination agreement
6	BERNIER, E.	19	(channel improvement) survey, clearing, construction, operation and maintenance		easement
7	WILDER, F.	21	survey, inspection, establishment of vegetation		permit
8	VIRGINIA (State Highway 29)	3	road closure		permit
9	CORPS OF ENGINEERS	-	fill and discharge		404 permit

9 104I-70.1117 Landrights workmap index.

104I-70.1117-1

PART 104I-71 RELOCATION ASSISTANCE

104I-71.002-5(a)(9)

(a) Housekeeping unit: A decent, safe, and sanitary housekeeping unit is one which meets at least the following:

(1) Conforms to state and local housing codes and ordinances. Conforms with all applicable provisions for existing structures that have been established under state or local building, plumbing, electrical, housing and occupancy codes and similar ordinances or regulations.

(2) Water. Has a continuing and adequate supply of potable water.

(3) Kitchen requirements. Has a kitchen or an area set aside for kitchen use which contains a sink in good working condition and connected to hot and cold water, and an adequate sewage system. A stove and refrigerator in good operating condition shall be provided when required by local codes, ordinances, or custom. When these facilities are not so required the kitchen area or area set aside for such use shall have utility service connections and adequate space for the installation of such facilities.

(4) Heating system. Has an adequate heating system in good working order which will maintain a minimum temperature of 70 degrees in the living area under local outdoor design temperature conditions. A heating system will not be required in those geographical areas where such is not normally included in new housing.

(5) Bathroom facilities. Has a bathroom, well lighted and ventilated, and affording privacy to a person within it, containing a lavatory basin and a bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush closet, all in good working order and properly connected to a sewage disposal system.

(6) Electric system. Has an adequate and safe wiring system for lighting and other electrical services. When this utility is not reasonably accessible and is not required by local codes, ordinances, or custom, an exception may be approved by the state conservationist.

(7) Structurally sound. Is structurally sound, weather-tight, in good repair, clean, and adequately maintained.

(8) Egress. Each building used for dwelling purposes shall have a safe, unobstructed means of egress leading to open space at ground level. Each dwelling unit in a multidwelling building must have access either directly or through a common corridor to a means of egress to open space at ground level. In multidwelling buildings of three stories or more, the common corridor on each story must have at least two means of egress.

(9) Habitable floor space. Habitable floor space is defined as that space used for sleeping, living, cooking, or dining purposes and excludes such enclosed spaces as closets, pantries, bath, or toilet rooms, service rooms, connecting corridors, laundries, and unfinished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces. Has a minimum of 150 square feet of habitable floor space for the first occupant in a standard living unit and at least 100 square feet (70 square feet for mobile home) of habitable floor space for each additional occupant. The floor space is to be subdivided into sufficient rooms to be adequate for the family. All rooms must be adequately ventilated.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.002-5(b)

(b) Nonhousekeeping unit. A decent, safe, and sanitary nonhousekeeping unit is one which meets at least the following requirements:

(1) The requirements specified in § 104I-71.002-5(a)(1), (4), (6), (7), and (8) for a housekeeping unit.

(2) Habitable floor space. At least 100 square feet of habitable floor space for the first occupant and 50 square feet of habitable floor space for each additional occupant. Habitable floor space is defined in § 104I-71.002-5(a)(9).

(3) Bathroom facilities. Lavatory, bath, and toilet facilities that provide privacy.

(c) Uninsured homes or buildings are not to be excluded from consideration as comparable, decent, safe and sanitary housing or business sites in identified flood hazard areas eligible for federal financial assistance.

§ 104I-71.002-6 Displacing agency.

Any nonfederal agency or organization which has or acquires an interest in or permission to use real property for the purposes of a federal financially-assisted project administered by SCS which results in the displacement of a person.

§ 104I-71.002-7 Displaced person.

(a) Any person who moves from real property, or moves his personal property from real property, as a result of the actual acquisition of such real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program or project undertaken with federal financial assistance provided by SCS. If a person moves as the result of such a notice, it makes no difference whether or not the real property actually is acquired.

(b) The date of the actual acquisition of real property is to be interpreted as the date on which:

(1) The displacing agency acquires through negotiations, condemnation, or exercise of its rights under an option, an interest in, or permission to use real property for the purposes of a federal financially assisted project; or

(2) A program agreement is signed on behalf of SCS when the real property had been acquired prior to that date by the displacing agency for any purpose other than a federal financially assisted project.

(c) A person who moves into or onto the acquired real property after the date of actual acquisition of the real property and is subsequently required to vacate the real property does not qualify as a displaced person.

§ 104I-71.002-8 Displacement notice.

A displacement notice is a written notice given to persons that may be displaced as a result of a proposed acquisition. This notice shall state the acquiring agency's desire to acquire the property and notify the persons of their rights under the Act and these regulations if they are displaced. The notice shall be given to such persons not later than the initiation of negotiations for the property to be acquired. See § 104I-71.205 for issuing instructions.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.2002-13

§ 104I-71.002-9 Dwelling.

Dwelling includes a single family building; a one family unit in a multifamily building; a unit of a condominium or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under state law, or cannot be moved without substantial damage or unreasonable cost, or is not a decent, safe and sanitary dwelling. For purposes of § 104I-71.501, the term "dwelling" shall mean the place of permanent abode of a person and does not include seasonal or part-time dwelling units such as beach houses, mountain or other vacation cabins.

§ 104I-71.002-10 Economic rent.

Economic rent is the amount of rent the displaced person would have had to pay for a similar dwelling unit located in an area not generally less desirable than the location of the dwelling to be acquired.

§ 104I-71.002-11 Family.

Two or more individuals living together in the same dwelling as a single family unit, and who are related to each other by blood, marriage, adoption, or legal guardianship. Others who live together as a family unit will be treated as a family.

§ 104I-71.002-12 Farm operation.

(a) Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. The activity is capable of contributing materially if, during the immediately preceding two-year period or the period of operation, whichever is the lesser, or during such other period as the state conservationist determines to be more equitable, the value of sales and the market value of home use contributes:

- (1) Average annual gross receipts of at least \$2,000 in value; or
- (2) Average annual net earnings of at least \$1,000 in value; (see § 104I-71.802(b)); or
- (3) At least one-third of the average annual gross income of the owner(s), including income from all sources, such as welfare if any.

(b) A feeder operation shall be considered a farm operation rather than a business when the primary sources of the feed for the livestock or poultry are farms or ranches controlled by the person engaged in the feeder operation. The location of the feeder operation is immaterial.

§ 104I-71.002-13 Federal financially assisted program or project.

Any program or project administered by SCS or by a state agency in which a grant, loan, or contribution is provided to the state agency by SCS. Federal contracts of guaranty or insurance are excluded.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.002-14

§ 104I-71.002-14 Financial means.

Financial means is the ability of a displaced family or individual to afford a replacement dwelling without jeopardizing the other needs of the displaced family or individual such as food, clothing, child care, and medical expenses. For purposes of this section the average housing cost (monthly mortgage or rental payments, insurance for the dwelling unit, property taxes, utilities, and other reasonable recurring related expenses), which the displaced family or individual will be required to pay, should generally be less than 25 percent of the monthly gross income or the present ratio of housing payment to income including supplemental payments made by public agencies.

§ 104I-71.002-15 Initiation of negotiations.

(a) The date the acquiring agency furnishes the property owner or his representative a written offer to purchase the real property.

(b) Instances in which the date of a written offer would be inappropriate for the purpose of establishing the date negotiations were initiated, and the date to be used in such instances are:

(1) The date the condemnation suit is filed with the court when the real property is to be acquired through the usual form of condemnation, and for justifiable reasons no prior offer had been made for the real property.

(2) The date the board of viewers or equivalent court-appointed body files with the court their first report of the appraisal of benefits and damages if landrights are acquired on a project basis under state law, and the real property values are initially established through the process of appraisal of benefits and damages.

(3) The date on which a program agreement is signed on behalf of SCS when the real property had been acquired prior to that date by the displacing agency for any purpose other than a federal financially assisted project.

(4) The date on which a grantor agrees in writing to donate an interest in real property.

(5) The date on which an owner of an interest in real property to be acquired by a land exchange agrees in writing to the exchange.

§ 104I-71.002-16 Mortgage.

Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under the law of the state in which the real property is located, together with the credit instruments, if any, secured thereby.

§ 104I-71.002-17 Notice to vacate.

A written notice to the persons to be displaced of the date on which they must have moved from the property being acquired. (See § 104I-71.209 for issuing procedures.)

PART 104I-71 RELOCATION ASSISTANCE

104I-71.002-23

§ 104I-71.002-18 Owner.

A person who holds fee title in, a life estate to or, a 99-year lease on real property; or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit; or is the contract purchaser of any such estates or interest; or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the displacing agency, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interest by devise, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

§ 104I-71.002-19 Person.

Any individual, family, partnership, corporation, or association.

§ 104I-71.002-20 Program agreement.

Any agreement in which SCS and the state agency commit their resources to carrying out a federal financially assisted project. Examples are: Watershed Plan Agreement in a PL-566 project, Sub-watershed Plan Agreement in the eleven authorized flood control projects, and RC&D Measure Plan in a RC&D project.

§ 104I-71.002-21 Purchase of a replacement dwelling.

- (a) acquisition of an existing dwelling
  - (2) acquisition and rehabilitation of a substandard dwelling
  - (3) relocation, or relocation and rehabilitation of an existing dwelling
  - (4) construction of a new dwelling
  - (5) contract to purchase a dwelling to be constructed on a site provided by a builder or developer, or
  - (6) contract for the construction of a dwelling on a site which the displaced person owns or acquires for this purpose.
- (b) See § 104I-71.501(c) for additional criteria.

§ 104I-71.002-22 Rental rate.

The amount paid or determined to be appropriate for the use of property exclusive of such items as utilities and other services.

§ 104I-71.002-23 Relocation agreement.

An agreement in which the displacing agency and SCS record their respective responsibilities concerning the displacement of persons, businesses, or farm operations. See § 104I-71.302-1 for relocation agreement criteria.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.002-24

§ 104I-71.002-24 Replacement dwelling.

(a) A replacement dwelling is one that is at least decent, safe, and sanitary.

(b) A replacement dwelling may, at the election of the displaced person, be a conventional dwelling or a mobile home, provided mobile homes qualify as replacement dwellings under state law. If the chief legal officer of the state determines that mobile homes cannot be considered as replacement housing under state law, he shall be requested by the displacing agency to provide a written opinion containing a full discussion of the facts and the law involved. The opinion shall be submitted through the displacing agency and SCS administrative channels to the Administrator for consideration.

(c) The displacing agency will determine whether the replacement dwelling selected by the displaced person meets the requirements for a replacement dwelling.

§ 104I-71.002-25 State.

Any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

§ 104I-71.002-26 State agency.

(a) Any department, agency, or instrumentality of a state or of political subdivision of a state, or any department, agency, or instrumentality of two or more states or of two or more political subdivisions of a state or states.

(b) State agency includes any non-federal agency or organization sponsoring an SCS administered local project involving federal financial assistance.

§ 104I-71.002-27 Tenant.

A person who leases, rents, lawfully occupies or temporarily possesses real property or a mobile home classified as personal property, of another by any kind of right.

SUBPART 71.1 GENERAL

104I-71.106(a)

§ 104I-71.101 Delegation of authority.

Where the title "state conservationist" is used in this Part, authority to act on behalf of the Administrator is delegated to the state conservationist. Decisions made or actions taken by a state conservationist under this delegation of authority are to be documented in writing. The documentation must include a statement of the facts and the basis for his decision.

§ 104I-71.102 Actions reserved to the Administrator.

In those instances in which the making of a decision has been reserved to the Administrator, the state conservationist will submit his request for decision in writing to the Administrator. The request must contain all known facts in the case, the recommendation of the state conservationist and the basis for the recommendation.

§ 104I-71.103 Application for relocation assistance payment.

A displaced person, business, or farm operation must make proper application to the displacing agency for relocation payments within 18 months. This 18 month period begins on the date the move was made from the real property acquired, or to be acquired, or the date on which the acquiring agency makes final payment of all costs of acquiring that real property, whichever is the later date. The displacing agency may extend this period upon a showing of good cause.

§ 104I-71.104 Appeal rights.

A displaced person aggrieved by a determination as to eligibility for relocation payments or the amount of a payment may have his application reviewed by the head of the displacing agency.

§ 104I-71.105 Lease back to former owners or tenants.

(a) The displacing agency may permit use of or lease realty back to former owners or tenants for a period of not more than one year, and may extend or renew such permits or leases for successive periods of not more than one year.

(b) If an owner or tenant is permitted to occupy the acquired real property on a rental basis for a short term, or for a period subject to termination by the displacing agency on short notice, the amount of rent required will not exceed the fair rental value of the property to a short term occupier.

§ 104I-71.106 Adjustments in requirements.

(a) The state conservationist may make adjustments in the requirements for decent, safe, and sanitary dwellings only in cases of unusual circumstances or in unique geographical areas. Approved adjustments shall not affect the method of computation of the replacement housing payment.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.106(b)

(b) Requirements for adjustments or exceptions should be limited to items and circumstances that are beyond the reasonable control of the displacing agency and the displaced person. As an example, exceptional problems may arise with regard to large families meeting floor space requirements in the replacement dwelling selected by them. In such a case, it would be appropriate to waive the square footage requirements on a case-by-case basis provided there is satisfactory bedroom space based on the age and sex of the occupants.

(c) Where a local housing code does not meet all the standards listed in § 104I-71.002-5(a) and (b) but is reasonably comparable, the displacing agency may submit such code to the state conservationist for approval or disapproval as acceptable standards for decent, safe, and sanitary housing.

§ 104I-71.107 Criteria for new construction.

If the state conservationist determines that adequate comparable replacement housing is not available, he may recommend that the Administrator take action to develop replacement housing in accordance with the guidelines issued by the Secretary of Housing and Urban Development as published in 24 CFR 43. Such a request is to be made only when no other course of action is available. In furnishing replacement housing under the provisions of this part, the displacing agency shall, whenever practicable, utilize the services of state or local housing agencies, or other agencies having experience in the administration and conduct of similar housing assistance activities.

§ 104I-71.108 Cooperating with other agencies -- services.

(a) When other federal or state agencies are administering a relocation assistance advisory program to provide assistance in the community or area to persons displaced under other programs, the displacing agency shall offer to cooperate to the maximum extent feasible with the other agencies to eliminate duplication and assure uniform application of the Act so that all displaced persons receive the maximum assistance available to them.

(b) When real property acquisitions by the displacing agency will cause displacements from dwellings, such agency will provide the nearest Housing and Urban Development (HUD) area or regional office with information regarding the project, and consult with such office concerning availability of housing.

SUBPART 104I-71.2 DISPLACING AGENCY RESPONSIBILITIES

104I-71.206(a)(2)

§ 104I-71.201 General.

As in landrights acquisitions, the displacing agency must provide the leadership in administering the provisions of the Act when relocations are involved. The displacing agency's responsibilities include but are not limited to the following:

§ 104I-71.202 Required assurances and cost sharing arrangements.

The displacing agency must provide the assurances contained in Section 210 and 305 of the Act and agree to the arrangements for the cost sharing of relocation costs in the program agreement.

§ 104I-71.203 Evidence of availability of comparable replacement dwellings.

(a) Prior to initiation of any phase of a project, or the continuation of any phase of a project entered into before January 2, 1971, which will cause the displacement of any individual or family from a dwelling, the displacing agency must provide the state conservationist with evidence satisfactory to him that at least one comparable replacement dwelling will be available for and prior to the displacement of any such individual or family. The evidence must be based on a current survey and analysis of available comparable replacement housing.

(b) The Administrator may waive this requirement in emergencies or other extraordinary situations where immediate possession of real property is crucial. Each waiver shall be supported by appropriate findings and a determination of the necessity for the waiver.

§ 104I-71.204 Timing of relocation agreement.

The displacing agency and SCS must enter into a relocation agreement before SCS funds are obligated for an element of work which will result in the displacement of persons, businesses, or farm operations. See § 104I-71.302-1.

§ 104I-71.205 Issuance of displacement notice.

Concurrent with or prior to initiation of negotiations for acquisition of real property which, if consummated, will result in the displacement of a person, the displacing agency must issue a displacement notice to each such person. The notice shall be served personally or sent by certified or registered first class mail.

§ 104I-71.206 Establishing and maintaining relocation staff and facilities.

(a) Concurrent with or prior to its issuance of the first displacement notice, the displacing agency must have established and in operation facilities and staff which in the opinion of the state conservationist is adequate to:

- (1) Provide relocation assistance advisory services.
- (2) Provide relocation assistance.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.206(a)(3)

(3) Promptly process and pay eligible claims for relocation costs presented by displaced persons.

(4) Maintain records of the actions taken to provide relocation assistance advisory services and relocation assistance to each displaced person. Maintain records of the extent of eligibility of each displaced person including claims from such persons and receipts and other evidence substantiating the payments made to displaced persons. Retain these records for a period of three years following payment of the last claim received from a displaced person, and make them available to the Administrator or his representative for inspection and audit at reasonable times.

(b) The facilities and staff must, to the extent necessary to promptly comply with this responsibility, be maintained until all relocations have been accomplished and it is mutually agreed by the displacing agency and the state conservationist that the relocation agreement has served its purpose and may be terminated.

§ 104I-71.207 Relocation assistance advisory services.

(a) The displacing agency shall provide relocation assistance advisory services for displaced persons if its acquisition of real property will result in the displacement of any person.

(b) If the displacing agency determines that any person occupying real property immediately adjacent to the acquired real property is caused substantial economic injury because of the acquisition, that agency shall offer such person relocation assistance advisory services.

(c) A relocation assistance advisory program shall include such measures, facilities or services as may be necessary or appropriate in order to:

(1) Determine the need of displaced persons for relocation assistance.

(2) Provide current and continuing information on the availability, prices and rentals of comparable sale and rental replacement housing, and of comparable properties and locations for displaced businesses and farm operations.

(3) Assure that, within a reasonable period of time prior to displacement, comparable replacement dwellings will be available for those to be displaced from dwellings.

(4) Assist a person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location.

(5) Supply information concerning housing programs, disaster loan programs, and other federal or state programs offering assistance to displaced persons.

(6) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(7) Advise displaced persons that they should notify the displacing agency before they move.

SUBPART 104I-71.2 DISPLACING AGENCY RESPONSIBILITIES

104I-71.209(a)(2)

(8) Inform affected persons of the benefits to which they may be entitled under the Act and these regulations. See Exhibit § 104I-71.905 for a suggested letter and brochure to be given by the displacing local agency to a potential displaced person.

§ 104I-71.208 Contracting for advisory services.

(a) The displacing local agency may, by contract or otherwise, secure the relocation assistance advisory services specified in § 104I-71.207(c) from any federal, state, or local governmental agency or from any person or organization, provided that the displacing agency and the state conservationist agree that such contract will prevent unnecessary expense, avoid duplication of functions, and promote uniform administration of relocation assistance programs.

(b) The solicitation of proposals for such contract, the provisions of the contract, and its administration shall be in accordance with state laws, procedures which may be prescribed by the state conservationist, and shall include the following provisions:

(1) "The contract will be carried out in compliance with all requirements respecting nondiscrimination as contained in the Civil Rights Act of 1964, as amended (42 USC 2000), which provides that no person in the United States shall, on the ground of race, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any activity receiving federal financial assistance."

(2) "Records created in or otherwise related to the performance of this contract shall be retained by the contractor for a period of not less than three years following completion of the contract unless earlier disposal is authorized by the (name of displacing agency) and SCS. Such records shall be available for inspection by authorized representatives of the (name of displacing agency) and the U.S. Department of Agriculture at any reasonable time during the life of the contract and any subsequent retention period for such records."

§ 104I-71.209 Issuance of notice to vacate.

(a) The displacing local agency must give notice to vacate to each individual, family, business, or farm operation to be displaced as indicated:

(1) The construction or development of a project or site will be so scheduled that to the greatest extent practical no person lawfully occupying real property shall be required to move from a dwelling (assuming a comparable replacement dwelling will be available) or to move his business or farm operation without at least 90 days written notice prior to the date on which such move is required.

(i) A notice of less than 90 days may be given only in an emergency or other extraordinary situation, or when the personal property to be moved is not associated with a displacement from a dwelling, business, or farm operation.

(ii) When it is proposed to give an advance notice of less than 90 days, the prior approval of the state conservationist is required.

(2) The notice shall be served personally or sent by certified or registered first class mail. When sent by mail, a return receipt shall be requested.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.209(b)

(b) An owner will not be required to surrender possession of real property until the acquiring agency has paid the agreed purchase price, or deposited with the court for the benefit of the owner an amount not less than the approved appraisal of the real property being acquired.

§ 104I-71.210 Prompt payment to displaced persons.

The displacing agency must make prompt payment to a displaced person after receipt and approval of a proper application for payment. Relocation payments will not be approved unless the move has been made. No payments or assistance will be required if the displaced person receives a payment required by the state law of eminent domain and the state conservationist determines this to have substantially the same purpose and effect as the relocation payments required by the regulations.

§ 104I-71.211 Advances, displacing agency to displaced person.

(a) If the displacing agency determines that delaying payment of eligible relocation costs to a displaced person until after such person has moved will create a hardship, the displacing agency may authorize a payment to be advanced from its funds. The displacing agency may not use SCS funds for this purpose except under the terms and conditions of the agreement referred to in § 104I-71.302-1.

(b) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The displacing agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, provided the homeowner enters into an agreement with the agency that:

(1) Upon final determination of condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(2) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(b) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination using the award as the acquisition price.

§ 104I-71.212 Performance reports.

(a) The displacing agency shall submit a performance report to SCS indicating the status of the relocation program for displacements covered in the relocation agreement. Performance reports shall be prepared and furnished on a quarterly basis briefly presenting the following information:

SUBPART 104I-71.2 DISPLACING AGENCY RESPONSIBILITIES

104I-71.212(b)(2)

(1) A comparison of the number of relocations completed to the number planned for relocating during the report period.

(2) Reasons for delays where goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of increased costs.

(b) The displacing agency shall inform SCS immediately when an event occurs which will have significant impact on the project or the relocation program. Such instances are to be reported as soon as the following types of conditions become known:

(1) Problems, delays or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of schedules and goals, or preclude the completion of the relocation program within the established time frame. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any federal assistance needed to help resolve the situation.

(2) Favorable developments or events which will enable meeting schedules and goals sooner than anticipated or which will entail significantly less expenditure than originally projected.

SUBPART 104I-71.3 SCS RESPONSIBILITIES

104I-71.302-3

§ 104I-71.301 General.

SCS personnel have an obligation to become familiar with the requirements of the Act and know what the sponsors must do to provide relocation assistance, as required, in a timely matter. SCS compliance verification and review responsibilities are indicated throughout this Part.

§ 104I-71.302 Specific responsibilities.

§ 104I-71.302-1 Relocation agreement.

(a) Prior to the obligation of SCS funds for any element of work which will result in the displacement of persons, businesses, or farm operations the displacing agency and the state conservationist shall enter into a relocation agreement. See Exhibit § 104I-71.903.

(b) SCS will not sign the relocation agreement until the works of improvement causing displacements is included in an approved program agreement, and an operation and maintenance agreement is signed and SCS funds for the SCS share of relocation costs are available.

(c) This agreement implements the commitment for federal cost sharing of relocation payments set forth in the program agreement. The initial listing in the relocation agreement of persons eligible for payments and the amount of such payments will be an estimate. The agreement is to be amended as necessary to keep current the list of eligible persons and the obligation of SCS funds. Requests for payment of the SCS share of relocation payments made by the displacing agency shall be on Form AD-628.

(d) Any proposed changes in the provisions of Exhibit § 104I-71.903 must be approved by the Administrative Services Division (ASD) before the agreement is signed by either party. Refer any questions on the agreement to ASD.

(e) Occasionally displacing agencies elect to initiate action to acquire real property for project purposes prior to the time SCS can enter into the agreement. In such cases, the displacing agency must be fully informed of its responsibilities and actions it must take to satisfy the requirements under which SCS must operate. This need may be facilitated by providing the displacing agency with a copy of this part and § 104I-70.

§ 104I-71.302-2 Inspections.

The state conservationist will arrange for periodic inspections of the records of the displacing agency to ascertain whether relocation assistance, relocation assistance advisory services, and relocation payments are being provided, and whether there is compliance otherwise by the displacing agency with the assurance furnished by such agency.

§ 104I-71.302-3 Advances, SCS to displacing agency.

If the state conservationist determines that it is necessary for the expeditious completion of a project, he may advance to the displacing agency the SCS share of the

PART 104I-71 RELOCATION ASSISTANCE

104I-71.302-3(a)

cost of any relocation payments. This action shall be accomplished and documented in the following manner.

(a) The displacing agency's written request to the state conservationist for and advance is to:

- (1) Identify the relocation agreement for which the advance is requested.
- (2) Estimate the amount of advance needed.
- (3) Fully explain why the advance is necessary to the expeditious completion of the works of improvement covered by the relocation agreement.

(b) If the state conservationist approves the request, the relocation agreement is to be amended to include the conditions relative to the advance. The minimum content of such an amendment is contained in Exhibit § 104I-71.904. Dates and periods of time prescribed in Exhibit § 104I-71.904 may be changed without ASD approval provided the changes will not have federal funds in the hands of the displacing agency more than sixty days prior to the expected date of need. Other changes require prior ASD approval. State conservationists may sign the agreement on behalf of SCS.

(c) If the state conservationist disapproves the request, he shall so notify the displacing agency in writing giving reasons for his disapproval.

SUBPART 104I-71.4 DISPLACED PERSON RESPONSIBILITIES

104I-71.404(b)

§ 104I-71.401 Moving of personal property.

To the maximum extent possible, supplemented by such assistance as may be requested of and required to be or capable of being provided by the displacing agency, a displaced person has the final responsibility for moving his personal property from the acquired real property.

§ 104I-71.402 Arrangement for replacement dwelling.

The displaced person must select and make arrangements for a replacement dwelling, if displaced from a dwelling, or site for a replacement business or farm operation, if displaced from a business or farm operation.

§ 104I-71.403 Maintenance of eligibility.

To be eligible for relocation payments a displaced person must not move from the acquired real property prior to either the actual acquisition of the real property from which he is being displaced or receipt of a written notice to vacate. If a person moves as the result of such a notice, it makes no difference whether or not the real property actually is acquired; he is eligible. A displaced person should advise the displacing agency before moving from the acquired real property.

§ 104I-71.404 Relocation payments.

(a) A displaced person seeking relocation payments must provide with his payment application evidence required by the displacing agency to adequately support the reimbursable expenses incurred by the displaced person. The required evidence may include such things as receipts for expenditures, estimates, weight certificates, copy of lease or rent receipts, copy of sale or purchase contract and closing statement, and copy of mortgage or note.

(b) Refer to § 104I-71.103 for application criteria. Also, see Exhibit § 104I-71.907 for forms to be used by displaced persons in making application to the displacing agency for payment of eligible relocation costs incurred.

§ 104I-70.000 Scope of part.

Whenever real property or its use will be required in accomplishing a Federal financially assisted project under a program administered by SCS, landrights must be acquired to provide SCS and sponsor personnel the authority to enter private and nonprivate lands for project purposes. Such purposes include the investigations and surveys necessary for installation of project measures, installing, inspecting, operating, and maintaining said project measures.

§ 104I-70.001 Purpose.

Policy and procedures relating to the acquisition of landrights for use in financially assisted projects under programs administered by SCS are based on:

(a) Public Law 91-646 (42 U.S.C. 4601 et seq., 84 Stat. 1894), The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. See Exhibit 104I-71.901.

(b) U.S. Department of Agriculture Regulations, 7 CFR 652, hereinafter referred to as the regulations. See Exhibit 104I-71.902.

(c) Legal and procedural requirements necessary to provide the assurances required by Sec. 4(1) of Public Law 83-566, as amended (68 Stat. 667, 16 U.S.C. 1004), Watershed Protection and Flood Prevention Act.

(d) Resource Conservation and Development Program Authorities (7 U.S.C. 1010 - 1011, and 16 U.S.C. 590 a-f,q).

(e) Section 13 of the Flood Control Act of 1944, Public Law 78-534 (58 Stat. 905).

(f) Section 216, Flood Control Act of 1950, Public Law 81-516 (64 Stat. 184, 33 U.S.C. 701 b-1). Section 403, Agriculture Credit Act of 1978, PL 95-334 (92 Stat. 434, 16 U.S.C. 2203).

§ 104I-70.002 Definitions.

The definitions and comments thereon contained in § 104I-71 are equally applicable to this part. Additional definitions required by this chapter follow.

§ 104I-70.002-1 Acquiring agency.

Any agency or organization which has or acquires an interest in real property to carry out a project with Federal financial assistance under programs administered by SCS. In watershed projects and RC&D measures, the acquiring agency must be a sponsor of the project.

§ 104I-70.002-2 Landright.

Any interest acquired in or permission obtained to use land, buildings, structures, or other improvement. The acquisition of a mobile home occupied by a displaced person shall be treated as a landright in the following situations:

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.002-2(a)

(a) The mobile home is considered real property under State law; or

(b) The mobile home is considered personal property under State law; the displaced person is eligible for and elects to receive the replacement housing differential and related expenses described in § 104I-71.500; and either

(1) The structural condition of the mobile home is such that it cannot be moved without substantial damage or unreasonable cost; or

(2) The mobile home is not considered to be a decent, safe and sanitary dwelling as defined in 104I-71.002-5.

§ 104I-70.002-3 Donated landrights.

A donated landright is a conveyance of real property or an interest in real property in which the only consideration for the landright is a pro forma monetary amount such as \$1.00 customarily recited as the consideration for a landright's conveyance.

§ 104I-70.002-4 Easement.

An interest in land owned by another that entitles the easement holder to a specified limited use or enjoyment.

§ 104I-70.002-5 Term easement.

An easement in effect for a specified limited period of time, such as a term of years, months, or for the life of either the grantor or grantee.

§ 104I-70.002-6 Permit.

A permission (license) which is a personal and revocable privilege to use the land of another for specified purposes without possessing any interest in that land.

§ 104I-70.002-7 Appraiser.

A qualified professional hired to provide a written statement setting forth an opinion of the fair market value of a landright as of a specified date, supported by the presentation and analysis of relevant data.

§ 104I-70.002-8 Fair market value.

(a) The highest price which a property will bring if placed for sale in the open market, allowing a reasonable time to find a purchaser who buys with full knowledge of all the uses to which it is adapted, and for which it is capable of being used.

(b) The value of landrights eligible for SCS cost sharing as agreed to between the acquiring agency and SCS and incorporated in the landrights agreement.

PART 104I-70 ACQUISITION OF REAL PROPERTY

104I-70.002-12

§ 104I-70.002-9 Just compensation.

That amount as a minimum required by law to be paid for the loss sustained by the owner as a result of taking or damaging of private property for public purposes.

§ 104I-70.002-10 Sponsor.

Any nonfederal agency or organization named in and signatory to a program agreement for the purpose of sponsoring a Federal financially assisted project under a program administered through SCS.

§ 104I-70.002-11 Project agreement.

A written agreement entered into by SCS and the sponsor(s) in which detailed working arrangements are established for the installation of works of improvement, or for other related purposes.

§ 104I-70.002-12 In-kind contributions.

The value of land provided by the sponsor or other nonfederal parties as a noncash contribution directly benefiting and specifically identifiable to the project or measure.

## § 104I-71.501 Replacement housing - general.

(a) A displaced person is to be referred by the displacing agency to comparable replacement housing. The maximum allowable replacement housing payment is to be determined using the value of a comparable replacement dwelling as one of the factors in the computation. However, the displaced person, if otherwise qualified, is eligible for a replacement housing payment if he purchases or rents a replacement dwelling, or site for a displaced mobile home, which is at least decent, safe, and sanitary.

(b) A person to be displaced from a dwelling or mobile home site, whether or not he qualifies for a replacement housing payment, cannot be ordered to vacate such dwelling or site until a comparable replacement dwelling or site is available to him. If the displaced person elects not to purchase or rent an available comparable replacement dwelling or mobile home site, he may be ordered to vacate the acquired property if other replacement dwellings, or mobile home sites, which are at least decent, safe, and sanitary are available to him within the community in which the acquired property is located.

(c) If construction or rehabilitation is required and completion is delayed beyond the end of the one-year period specified in § 104I-71.504-1(b), the displacing agency may establish the date of occupancy as the date that the displaced person enters into a contract for such construction or rehabilitation or for the purchase upon completion of a dwelling to be constructed or rehabilitated on a site provided by a builder or developer. The displacing agency must determine that the delay was for reasons not within the reasonable control of the displaced person, and the displaced person must occupy the replacement dwelling when the construction or rehabilitation is completed. Payment by the displacing agency will not be made until the displaced person has occupied the replacement dwelling.

(d) A displaced person may serve as his own contractor in whole or in part in providing his replacement dwelling by construction or by acquisition and rehabilitation of a standard dwelling. In such instances the cost to the displaced person of the replacement dwelling would be determined from all sources verifying actual costs such as contracts, payrolls, and receipts. The allowable cost also may include the value of land, labor, supplies and materials obtained or provided by and without cost to the displaced person to the extent stated in § 104I-71.503-3(a)(3). The allowable amount of the total of all such costs may not exceed the fair market value of the replacement dwelling. Where any physical factor associated with the acquired dwelling is below the standards for decent, safe, and sanitary, such factor may be allowed in providing the replacement dwelling but only to the extent necessary to meet the minimum requirements of decent, safe, and sanitary. Otherwise such factor may be allowed to the extent of comparability with the acquired dwelling except for a limitation on the land area of the replacement site. Following are items that may be involved in these situations, together with comments and limitations applicable thereto:

(1) The allowable land area of the replacement site shall not exceed that customarily occupied within the community by similar sized dwellings. Allow the lesser of the price paid for the land, or the appraised value of the land for residential purposes.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.501(d)(2)

(2) When a substandard dwelling purchased by displaced person is to serve as the basis of the replacement dwelling:

(i) If such dwelling is on the replacement site, allow the price paid for the dwelling.

(ii) If such dwelling must be moved to the replacement site, allow the cost to move the dwelling to the replacement site plus the lesser of the price paid for the dwelling or the appraised value of the dwelling for off-site removal.

(3) The reasonable cost of site work such as that listed below may be allowed. Unless otherwise indicated, physical limitations stated in an item represent maximum allowable where comparability is not involved.

(i) Foundation work.

(ii) Utilities, i.e., sewer or other sewage disposal means, potable water, electricity, and gas lines. Utility lines are limited to the extent they are located on the replacement site.

(iii) Driveway from one boundary of the replacement site to the replacement dwelling.

(iv) The lesser of the cost of a walkway from the driveway to an entrance to the replacement dwelling or one boundary of the replacement site to an entrance to the replacement dwelling.

(v) Vegetative landscaping to the extent customary in the community for new residential construction.

(vi) Basement excavation and construction, but only if necessary to make the replacement dwelling comparable to the acquired dwelling.

(4) Rehabilitation costs. Allow reasonable costs incurred for rehabilitation purposes exclusive of upgrading beyond the requirements of decent, safe, and sanitary or comparability, whichever is the greater.

(5) It is possible that the displaced owner-occupant of the dwelling located on the acquired land may, by negotiation with the acquiring agency, retain the dwelling for off-site removal and use as a replacement dwelling. This is in lieu of technically selling the dwelling to the acquiring agency and then purchasing the dwelling from the acquiring agency for off-site removal. In such cases the "acquisition cost of the dwelling acquired by the displacing agency" required to determine the allowable replacement housing cost differential shall be that amount for the dwelling which was included in the offering price for all of the real property to be acquired. This amount must include the appraised value of any utility lines to the acquired dwelling or of similar facilities such as a well or septic tank, walkways, driveway, landscaping, and the land area used for the dwelling site.

SUBPART 104I-71.5 REPLACEMENT HOUSING

104I-71.502(c)

§ 104I-71.502 Replacement housing payments - general.

(a) To be eligible for a replacement housing payment an individual or family displaced from an acquired dwelling, conventional or mobile, must have actually and lawfully occupied such dwelling for at least 90 consecutive days prior to initiation of negotiations for acquisition of the property from which displaced.

(b) An individual or family who occupied a mobile home on an acquired mobile home site and who removed the mobile home from the acquired site may be eligible for a replacement mobile home site payment. The acquired home site must have been actually and lawfully occupied as a mobile home site by the occupant of the mobile home for at least 90 consecutive days prior to initiation of negotiations for acquisition of the mobile home site.

(c) Where an acquired dwelling is located on a tract larger than normal for residential use in the area, the value of the acquired dwelling for establishing the amount

of the allowable replacement housing payment shall be determined by estimating or appraising the value of the acquired dwelling on a homesite typical in size for the area.

(d) Where an acquired dwelling is located on a tract for which the appraised value of the land is established on the basis of a higher and better than residential use, the value of the acquired dwelling used to establish the amount of the allowable replacement housing payment shall be determined by estimating or appraising the value of the acquired dwelling on a tract for which the highest and best use is for residential purposes.

(e) A displaced person who is eligible for a replacement housing payment may request the displacing agency to provide a written statement to any interested person, financial institution or lending agency as to:

(1) The eligibility of the displaced person for a payment.

(2) The requirements that must be satisfied before such payment can be made.

(3) The amount of the payment to be made by the displacing agency, provided the proposed replacement dwelling has been selected and the displacing agency has inspected and approved the selected dwelling.

(4) The estimated amount of the payment to be made by the displacing agency, provided plans and specifications for the construction or rehabilitation of a proposed replacement dwelling are available and the displacing agency has reviewed and approved the plans and specifications.

(f) The displacing agency may determine the amount necessary to purchase or rent, as appropriate, a comparable replacement dwelling by:

(1) A schedule method in which the displacing agency establishes a schedule based on current analysis of the market of reasonable acquisition costs or rental rates.

(2) The comparative method in which the displacing agency determines the reasonable acquisition cost or rental rate by selecting one or more comparable replacement dwellings that are most representative of the dwelling acquired. A single dwelling shall be used only when additional comparable replacement dwellings are not available.

(3) When the amount necessary to purchase a comparable replacement dwelling cannot be determined by the schedule or comparative methods, an estimate may be obtained of the cost to construct a comparable replacement dwelling.

(4) When none of the foregoing methods are feasible, the State Conservationist may develop other methods for computing replacement housing payments, or approve in advance other methods proposed by the displacing agency.

(g) When other Federal or State agencies are causing displacements in a community or area, the displacing agency shall seek the cooperation of the other agency or agencies on the method for computing the replacement housing payment and on the use of uniform schedules of sale and rental housing in the community or area.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.502(h)

(h) Payment for replacement housing to a displaced owner-occupant who moves from a one-family unit of a multifamily building owned by such person will be based on the cost of a comparable one-family unit in a multifamily building or, if such is not available, a single-family structure.

(i) Payment for replacement housing will not affect the eligibility of the displaced person to receive a payment for business earnings attributable to rental units or other legitimate business activities conducted in portions of the building.

(j) Two or more individuals, living together in a single family dwelling, displaced from the dwelling will be regarded as one displaced person for the purpose of replacement housing.

(k) Provisions of the Flood Disaster Protection Act of 1973 (PL 93-234) provide that after July 1, 1975, or one year after a community's identification as a special flood hazard area, whichever is later, no Federal or Federally-related financial assistance can legally be provided for acquisition or construction of buildings or mobile homes in an identified (mapped) special flood hazard area unless the community is participating in the national flood insurance program.

(l) Relocation payments may be made to displaced persons who select purchase of replacement housing in an identified special flood hazard area provided the dwelling and its contents are covered by flood insurance in an amount at least equal to the Federal investment. As a condition of establishing eligibility for replacement housing payments, displaced persons must furnish evidence that they have obtained an initial flood insurance policy covering the replacement dwelling and contents.

§ 104I-71.503 Replacement housing payments for homeowners (over 180 days) displaced from conventional dwellings.

The replacement housing payment for homeowners displaced from conventional dwellings is established as follows:

§ 104I-71.503-1 Eligibility requirements.

(a) An individual or family is eligible for payment for replacement housing costs provided such displaced individual or family:

(1) Actual owned and lawfully occupied the acquired dwelling for not less than 180 days immediately prior to the date of initiation of negotiations for such real property; and

(2) Purchases and occupies a replacement dwelling not later than the end of the one-year period beginning on the later of the date on which he:

(i) Receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling; or

(ii) Moves from the acquired dwelling.

(b) If such displaced individual or family elects to rent rather than purchase a replacement dwelling, see § 104I-71.504.

SUBPART 104I-71.5 REPLACEMENT HOUSING

104I-71.503-3(b)

§ 104I-71.503-2 Maximum payment.

The maximum payment that can be made by the displacing agency to the displaced homeowner for purchase of a replacement dwelling is \$15,000.

§ 104I-71.503-3 Eligible costs.

Costs eligible for payment by the displacing agency are:

(a) The amount, if any, which when added to the acquisition cost of the acquired dwelling, equals the reasonable cost of a comparable replacement dwelling.

(1) If the displaced person voluntarily purchases and occupies a replacement dwelling at a price less than the reasonable cost determined by the displacing agency for a comparable replacement dwelling, the displacing agency shall pay not more than the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(2) If the displaced person voluntarily purchases and occupies a replacement dwelling at a price less than the acquisition price of the acquired dwelling, no replacement housing payment is allowable under § 104I-71.503-3(a).

(3) If land, labor, supplies or materials necessary to the construction or rehabilitation of a replacement dwelling are obtained or provided by and without cost to the displaced person, the value of such land, labor, supplies or materials may be allowed in determining the cost of the replacement dwelling. Such allowable costs would be in addition to any expenses actually paid or incurred by the displaced person in the construction or rehabilitation work. The cost of the replacement dwelling under these circumstances would be the lesser of the cumulative total of the allowable costs and expenses discussed herein or the fair market value of the replacement dwelling. The value placed on land, labor, supplies or materials obtained or provided by and without cost to the displaced person shall be limited as follows.

(i) Land. The appraised fair market value of the land for the replacement site. The land area of the replacement site allowable in determining this value shall not exceed that customarily occupied within the community by similar sized dwellings.

(ii) Labor. This item is limited to the fair value of a reasonable amount of time devoted by the displaced person and any member of the displaced family to the rehabilitation or construction effort. The allowable rate shall be that for common labor within the community in which the replacement dwelling is located. However, if any such person is recognized within the community as skilled or semiskilled in a particular construction trade, he may be allowed the corresponding rate for the time actually devoted to such skill in performing the construction or rehabilitation.

(iii) Supplies and materials. The estimated fair market value of supplies or materials is allowable. If a structure is obtained without cost for off-site removal to the site of and to serve as the basis for or a part of the replacement dwelling, the appraised value of the structure for off-site removal plus a reasonable cost to move the structure to the replacement site may be allowed.

(b) The amount, if any, which will compensate the displaced person for any increased cost for interest, loan origination fee, and points which such person is

PART 104I-71 RELOCATION ASSISTANCE

104I-71.503-3(b)

required to pay for financing the acquisition of the replacement dwelling. The acquired dwelling must have been encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the date of initiation of negotiations for the acquisition of the acquired dwelling. This amount shall be computed on the basis of and limited to:

- (1) The amount of the unpaid debt at the time of acquisition of the acquired real property;
- (2) The length of the remaining term of the mortgage at the time of acquisition of the acquired real property;
- (3) The prevailing interest rate (not the APR under the Truth in Lending Act, Title I, PL 90-321) and points currently charged by mortgage lending institutions in the vicinity; and
- (4) The present worth of the future payments of increased interest, computed at the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) Reasonable expenses incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined by the displacing agency to be prepaid expenses:

- (1) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.
- (2) Lenders, FHA or VA appraisal fee.
- (3) FHA application fee.
- (4) Certification of structural soundness when required by lender, FHA or VA.
- (5) Credit report.
- (6) Title policy, certificate of title, or abstract of title.
- (7) Escrow agent's fee.
- (8) State revenue stamps, or sale or transfer taxes.

(d) Premiums for the initial flood insurance policy shall not be considered as an eligible expense for a relocation assistance payment.

§ 104I-71.504 Replacement housing payments for tenants and certain others displaced from conventional dwellings.

The policy and procedures on replacement housing payments for tenants and certain others which are displaced from conventional dwellings are as follows:

SUBPART 104I-71.5 REPLACEMENT HOUSING

104I-71.504-3(d)

§ 104I-71.504-1 Eligibility requirements.

An individual or family displaced from an acquired conventional dwelling is eligible for payment for replacement housing costs provided such displaced individual or family:

(a) Lawfully occupied the acquired dwelling for not less than 90 days immediately prior to the date of initiation of negotiations for the acquisition of such real property as:

- (1) A tenant; or
- (2) An owner for less than the 180 days required by § 104I-71.503-1(a)(1); or
- (3) An owner for not less than the 180 days required by § 104I-71.503-1(a)(1) who elects to rent rather than purchase a replacement dwelling.

(b) Purchases or rents and occupies a replacement dwelling not later than the end of the one-year period beginning on the date on which he:

- (1) If a tenant, moves from the acquired dwelling.
- (2) If an owner-occupant, receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or moves from the acquired dwelling, whichever is the later date.

§ 104I-71.504-2 Maximum payment.

The maximum payment which may be made by the displacing agency to the displaced person is \$4,000, but when the payment is made in connection with the purchase of a replacement dwelling the amount of the payment by the displacing agency in excess of \$2,000 must be matched by the displaced person.

§ 104I-71.504-3 Computing allowable rental payment - displaced tenant.

The allowable rental payment to be made to a displaced tenant shall be computed in the following manner:

(a) Multiply the monthly rental rate of the replacement dwelling or a comparable replacement dwelling, whichever is the lesser rate, by 48.

(b) Determine the average monthly rental rate paid by the displaced tenant for the acquired dwelling in the last 3 months prior to initiation of negotiations, provided such rent was reasonable. If such average rent paid was not reasonable, or if the displaced tenant is paying rent for the acquired dwelling to the displacing agency, economic rent shall be used in making this determination. If the displacing agency deems it advisable, more than 3 months may be used as a base for determining the average rental rate.

(c) Multiply the average monthly rental rate for the acquired dwelling as determined in (b) preceding by 48.

(d) Subtract from the amount determined in (a) preceding the amount determined in (c) preceding.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.504-4

§ 104I-71.504-4 Computing allowable rental payment - displaced owner-occupant.

The allowable rental payment to be made to a displaced owner-occupant shall be computed in the manner specified in § 104I-71.504-3 except that economic rent shall be used in making the determination required by 104I-71.504-3(b).

§ 104I-71.504-5 Disbursement of rental payments.

(1) The rental payment to a displaced person who rents replacement housing shall be paid in a lump sum, except it shall be paid in installments if the displaced person so requests.

(2) Installment payments, not to exceed four equal annual installments, will be made if so requested provided the displacing agency determines that the displaced person is continuing to occupy decent, safe, and sanitary housing at the beginning of each annual period.

§ 104I-71.504-6 Computing allowable payment on purchase of replacement dwelling.

If the displaced person purchases a replacement dwelling, the amount of the allowable replacement housing payment shall be computed by determining the amount necessary to enable the displaced person to make a down payment and to cover incidental expenses on the purchase of the replacement housing as follows:

(a) The amount determined shall be added to the amount required to be paid by the purchaser as points and/or origination or loan services fees if such fees are normal to real estate transactions in the area, on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(1) The amount of the down payment shall be the lesser of:

(i) The amount that would be required as a down payment for financing a conventional loan on the replacement dwelling actually purchased.

(ii) The amount required as a down payment for financing a conventional loan on a comparable dwelling.

(b) The full amount of the payment must be applied to the purchase price and incidental costs shown on the closing statement. Refer to § 104I-71.503-3(c) for typical, allowable, incidental expenses.

§ 104I-71.505 Replacement housing payments for mobile home occupants.

(a) The occupant of a mobile home located on an acquired site is eligible for payment for replacement housing costs if he meets the following requirements:

(1) The mobile home is acquired by the displacing agency, or the site of the mobile home is acquired which results in the mobile home being removed;

SUBPART 104I-71.5 REPLACEMENT HOUSING

104I-71.505(c)(2)(ii)

(2) The person actually occupied a mobile home on the acquired site for not less than 90 days immediately prior to the date of initiation of negotiations or date of receipt of a displacement notice whichever is later; and

(3) The person vacated the mobile home or mobile home site as a result of the acquisition of the property or the receipt of a notice to vacate.

(b) A person displaced from a mobile home who is eligible for payment for replacement housing costs may elect a mobile home or a conventional dwelling to serve as a replacement dwelling subject to the following conditions:

(1) Such displaced occupant of a mobile home will be eligible for replacement housing benefits to the same extent and subject to the same conditions as provided in § 104I-71.503 or § 104I-71.504 depending on the period of occupancy of the mobile home on the acquired site and the degree of interest held in the acquired mobile home.

(i) The required prior period of occupancy shall be computed from the date of initiation of negotiations or the date of receipt of a displacement notice, whichever is later.

(ii) The degree of interest, i.e., owner or tenant, will be that of the displaced occupant in the mobile home, exclusive of the interest held in the homesite.

(2) When either type of replacement dwelling is elected, the maximum allowable for purchase under § 104I-71.503 or rental under § 104I-71.504 shall be computed on the basis of the lesser of:

(i) The amount the displaced person pays for a replacement dwelling; or

(ii) The amount determined by the displacing agency as necessary to provide a comparable replacement mobile home.

(c) The occupant of a mobile home not acquired but moved from the acquired homesite is eligible for payment for replacement homesite costs subject to the following conditions:

(1) Such occupant will be eligible for replacement homesite benefits to the same extent and subject to the same conditions as provided in § 104I-71.503 or § 104I-71.504 depending on the period of occupancy of the mobile home on the acquired site, and the degree of interest held in the acquired homesite.

(i) The required prior period of occupancy shall be computed from the date of initiation of negotiations or the date of receipt of a displacement notice, whichever is the later.

(ii) The degree of interest, i.e., owner or tenant, will be that of the occupant in the homesite, exclusive of the interest held in the mobile home.

(2) The maximum allowable for purchase under § 104I-71.503 or rental under § 104I-71.504 shall be computed on the basis of the lesser of:

(i) The amount the occupant of the mobile home pays for a replacement homesite; or

(ii) The amount determined by the displacing agency as necessary to provide a comparable replacement homesite.

SUBPART 104I-71.6 MOVING AND RELATED EXPENSES

104I-71.604(a)

§ 104I-71.601 General.

Displaced persons are eligible for moving and related expenses. Displaced persons may elect to be paid for such expenses on an actual expense basis or a fixed payment basis unless such election is specifically excluded in this subpart. To qualify for moving and related expenses, evidence must be furnished by the displaced person that they have obtained an initial flood insurance policy covering the replacement dwelling and contents or the contents of the business if the replacement location is in an identified special flood hazard area. Displaced persons choosing to rent a replacement dwelling do not need to obtain flood insurance to qualify for these payments.

§ 104I-71.602 General eligibility.

(a) A displaced owner-occupant of an acquired multifamily dwelling who earns income from such dwelling and qualifies as a business is eligible for moving expenses for being displaced from a dwelling and for being displaced from a business.

(b) A person who lives on his business or farm property and is displaced from both his dwelling and business or farm property is eligible for payments for moving expenses for being displaced from a dwelling and for being displaced from a business or farm operation.

(c) A person displaced from a business or farm operation which causes such person to move from a dwelling not acquired is eligible for moving expenses for being displaced from a business or farm operation and for being displaced from a dwelling.

(d) A person displaced from a business or farm operation which causes such person to move personal property associated with the displaced business or farm operation from real property not acquired is eligible for the moving costs of such personal property as a part of the cost of moving the displaced business or farm operation.

§ 104I-71.603 Displaced from dwelling  
conventional or mobile.

Each individual or family owner or tenant occupant who is displaced from a dwelling may elect to receive either actual expenses described in § 104I-71.701 or the fixed payment described in § 104I-71.801, except that:

(a) Two or more persons, not a family, living together in an acquired single family unit who are displaced from the unit will be regarded as one displaced person for the purpose of receiving the fixed payment. If such persons do not elect to be considered as one displaced person and apply for the fixed payment, each individual in such group is eligible for actual expenses.

(b) No member of a displaced family living in the same single family unit is eligible for separate payment.

§ 104I-71.604 Displaced business (nonprofit  
organization excluded).

(a) A person displaced from a business, whether he discontinues or reestablishes the business, is eligible to receive the actual expense payment described in § 104I-71.701. He may elect the fixed payment described in § 104I-71.801 in lieu of the actual expense payment provided the displacing agency determines that:

PART 104I-71 RELOCATION ASSISTANCE

104I-71.604(a)(1)

(1) The business is not a part of a commercial enterprise having at least one other establishment that is not being acquired which is engaged in the same or similar business; and

(2) The business cannot be relocated without a substantial loss of its existing patronage. The determination of loss of existing patronage shall be made by the displacing agency only after consideration of all pertinent circumstances including but not limited to:

(i) The type of business.

(ii) The nature of the clientele.

(iii) The relative importance of the present and proposed locations to the displaced business.

(iv) The availability of a suitable replacement site for the displaced business.

(b) Outdoor advertising signs as defined in § 104I-71.002-3(4) when not a part of a displaced business are eligible only for actual expense payments described in § 104I-71.701.

§ 104I-71.605 Displaced farm operation.

A person displaced from an entire farm operation, whether he discontinues or reestablishes the farm operation, is eligible to receive the actual expense payment described in § 104I-71.701 or he may elect the fixed payment described in § 104I-71.801. Where a person is displaced from a part of his farm operation, he may elect the fixed payment only if the displacing agency determines that:

(a) The part taken met the definition of a farm operation prior to the taking; or

(b) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(c) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

§ 104I-71.606 Displaced nonprofit organization.

A displaced nonprofit organization, whether it discontinues or reestablishes its operations, is eligible to receive the actual expense payment described in § 104I-71.701. It may elect the fixed payment described in § 104I-71.801 if the displacing agency determines that:

(a) The nonprofit organization cannot be relocated without a substantial loss of its existing patronage which includes the persons, community, or clientele served or affected by its activities; and

(b) The nonprofit organization is not a part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

SUBPART 104I-71.7 ACTUAL EXPENSE PAYMENTS

104I-71.701(b)(3)

§ 104I-71.701 Displaced from a dwelling,  
conventional or mobile.

(a) Actual reasonable expenses that are allowable to the displaced person in moving himself, his family, and his personal property from the acquired real property are:

(1) Transportation of individuals, families, and personal property from the acquired real property to the replacement site not to exceed an airline distance of 50 miles, except where the displacing agency determines that relocation cannot be accomplished within such area.

(2) Packing, unpacking, crating and uncrating of personal property.

(3) Advertising for packing, unpacking, crating, uncrating, and transportation when the displacing agency determines that advertising for any of these services is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when determined to be necessary by the displacing agency.

(5) Insurance premiums covering loss and damage of personal property while in transit or approved storage.

(6) Removal, reinstallation, and reestablishment, including such modification as deemed necessary by the displacing agency, of machinery, equipment, appliances and other items not acquired as real property, and reconnection of utilities for such items. Prior to payment for any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal property, and the displacing agency is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault of negligence of the displaced person, his agents, or employees) in the process of moving, where insurance to cover such loss or damage is not obtainable.

(8) Such other reasonable expenses determined to be allowable by the Administrator.

(b) Reasonable expenses for temporary room and board incurred by a displaced person or family are allowable under the following conditions.

(1) A displaced homeowner chooses to retain ownership of his dwelling and move it to another location for his occupancy.

(2) A displaced owner of a mobile home which is considered real property chooses to move his mobile home to another location for his occupancy.

(3) A displaced homeowner, whose living quarters are directly associated with a business to be relocated, chooses to retain ownership of his dwelling and business and move them to another location for his occupancy.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.701(b)(4)

(4) A displaced tenant whose dwelling is moved chooses to retain his occupancy.

(c) Actual expense items to be excluded are:

- (1) Additional living expenses incurred during the move and at the new location.
- (2) Cost of moving structures and other improvements classed as real property in which the displaced person reserved ownership, except as otherwise provided by law.
- (3) Improvements to the replacement site except when required by law.
- (4) Interest on loans to cover moving expenses.
- (5) Loss of goodwill.
- (6) Loss of profits or income.
- (7) Loss of trained employees.
- (8) Personal injury.
- (9) Cost of preparing the application for moving and related expenses.
- (10) Payment for search cost in connection with locating a replacement dwelling.
- (11) Such other items as the Administrator determines should be excluded.

§ 104I-71.702 Limitations on self move.

(a) If a displaced person moves himself, his family, business, farm operation or other personal property by other than commercial means, the actual expense payment shall not exceed the estimated cost of moving by commercial means based on the prevailing local rates for moving, unless the State Conservationist determines that a greater amount is justified.

(b) Work such as packing and unpacking, crating and uncrating, disconnecting and connecting, loading and unloading, and driving of the vehicle used in the move, performed by the displaced person, member of a displaced family, or employees of a displaced business or farm operation may be allowed at the rate for common labor within the community from which displaced.

(c) The cost of transporting the personal property by vehicles owned by the displaced person may be allowed for the time required to perform the move at the commercial rental rate for similar vehicles within the community from which displaced.

§ 104I-71.703 Displaced business (including nonprofit organization) or farm operation.

(a) Actual reasonable expenses that are allowable in moving personal property of a displaced business or farm operation are the same as § 104I-71.701, except where personal property used in connection with a displaced business or farm operation is

of low value and high bulk, and the cost of removing, moving, reinstalling and reestablishing such property would, in the judgment of the displacing agency, be disproportionate in relation to its value. In such instances the allowable reimbursement for the expense of moving such personal property will not exceed the difference between the amount that would have been received for such item on liquidation and the cost of replacing the same at the new location with a comparable item available on the market.

(b) Actual direct losses, and certain related expenses, of tangible personal property such as equipment, machinery, or fixtures which a displaced business or farm operation is entitled to relocate but does not do so. The maximum cumulative amount allowable for these purposes is the estimated cost to move the items of property involved to a new location limited to 50 airline miles if the business or farm operation is relocated, or 50 miles total if the business or farm operation is discontinued.

(1) Actual direct losses include the following, but the amount of loss allowable for each item of personal property involved shall not exceed the estimated cost to move the item as set forth in (b).

(i) Personal property sold and replaced at the new location with a comparable item. Determine the amount of the actual loss by deducting the proceeds of the sale of the item from the replacement cost of the item.

(ii) Personal property sold but not replaced. Determine the amount of the actual loss by deducting the proceeds of the sale of the item from the fair market value of the item for continued use at its location prior to displacement.

(iii) Personal property abandoned. The amount of the actual loss shall be the fair market value of the property for continued use at its location prior to displacement plus the reasonable cost to the owner for establishing the fair market value. The cost to the displacing agency to remove abandoned personal property shall not be offset against other payments to the displaced business or farm operation.

(2) Certain related expenses are the reasonable costs incurred by the displaced business or farm operation in making a bona fide effort to sell the personal property that is not moved from the acquired location.

(c) Actual reasonable expenses limited to the items below, incurred by the displaced person in searching for a replacement site for a displaced business or farm operation. The maximum amount allowable for searching expenses is \$500 for each displaced business or farm operation unless the State Conservationist determines that a greater amount is justified based on the circumstances involved.

(1) Travel.

(i) Actual cost of common carrier.

(ii) Eleven cents per mile for use of privately owned vehicle.

(2) Meals and lodging.

(i) Three dollars per meal but not to exceed nine dollars per day per individual.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.703(c)(2)(ii)

(ii) Actual cost of lodging, but not to exceed twenty dollars per day per individual.

(3) Time. Time spent in searching at a rate of three dollars per hour, or at the rate of the displaced person's salary or earnings, but not to exceed ten dollars per hour. The maximum time allowed shall be eight hours per day.

(4) Real estate broker or agent assistance. Fees to locate a replacement site for a displaced business or farm operation but only when the displacing agency determines in advance that this is necessary.

SUBPART 104I-71.8 FIXED PAYMENT

104I-71.802(c)

§ 104I-71.801 Displaced from a dwelling,  
conventional or mobile.

A fixed relocation payment for a person or family displaced from a dwelling consists of a moving expense allowance not to exceed \$300 based on schedules maintained by state highway departments and approved by the Federal Highway Administration for the area in which the displacement occurs, plus a dislocation payment of \$200. A copy of the moving expense schedules issued by the Federal Highway Administration for each state, the District of Columbia, and Puerto Rico appears as Exhibit 104I-71.906.

§ 104I-71.802 Displaced business (including  
nonprofit organization) or  
farm operation.

A fixed relocation payment for a displaced business or farm operation is an amount equal to the average annual net earnings of the displaced business or farm operation subject to the following conditions:

(a) The payment shall be not less than \$2,500 nor more than \$10,000.

(b) Average annual net earnings will be one-half of any net earnings of the business or farm operation before federal, state, and local income taxes for the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the acquired real property. This includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. Another period may be approved by the state conservationist if the business or farm operation was not in operation for the full two-year period, or if an unusually long time lag between public announcement of a project and the displacement results in a material reduction in the earnings of the business or farm operation for such 2-year period, or under other conditions clearly warranting a different period. Any such period approved by the state conservationist must be for a consecutive period of time.

(c) The business or farm operation will be required to furnish pertinent portions of returns filed with the Internal Revenue Service for the applicable period, or other acceptable evidence of earnings if not required to file such returns.

§ 104I-71.901 Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

104I-71.901-1



Public Law 91-646  
91st Congress, S. 1  
January 2, 1971

**An Act**

84 STAT. 1894

To provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970".*

Uniform Relocation Assistance and Land Acquisition Policies Act of 1970.

Definitions.

**TITLE I—GENERAL PROVISIONS**

Sec. 101. As used in this Act—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve banks and branches thereof.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(3) The term "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(4) The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(5) The term "person" means any individual, partnership, corporation, or association.

(6) The term "displaced person" means any person who, on or after the effective date of this Act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 202(a) and (b) and 205 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

(7) The term "business" means any lawful activity, excepting a farm operation, conducted primarily—

(A) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(B) for the sale of services to the public;

(C) by a nonprofit organization; or

(D) solely for the purposes of section 202(a) of this title, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display

Soil Conservation Service Property Management Regulations  
(Amendment A-3, May 1977)

SCSPMR-7135

PART 104I-71 RELOCATION ASSISTANCE

104I-71.901-2

Pub. Law 91-646

January 2, 1971

84 STAT., 1895

or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(8) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(9) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

EFFECT UPON PROPERTY ACQUISITION

SEC. 102. (a) The provisions of section 301 of title III of this Act create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in this Act shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to the date of enactment of this Act.

TITLE II—UNIFORM RELOCATION ASSISTANCE

DECLARATION OF POLICY

SEC. 201. The purpose of this title is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

MOVING AND RELATED EXPENSES

SEC. 202. (a) Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after the effective date of this Act, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for—

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency; and

(3) actual reasonable expenses in searching for a replacement business or farm.

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a moving expense allowance, determined according to a schedule established by the head of the Federal agency, not to exceed \$300; and a dislocation allowance of \$200.

Soil Conservation Service Property Management Regulations  
(Amendment A-3, May 1977)

SCSPMR-7136

January 2, 1971

Pub. Law 91-646

84 STAT. 1896

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than \$2,500 nor more than \$10,000. In the case of a business no payment shall be made under this subsection unless the head of the Federal agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of such agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

## REPLACEMENT HOUSING FOR HOMEOWNER

Sec. 203. (a) (1) In addition to payments otherwise authorized by this title, the head of the Federal agency shall make an additional payment not in excess of \$15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the Federal agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the head of the Federal agency making the additional payment.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Federal agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

104I-71.901-4

Pub. Law 91-646

January 2, 1971

84 STAT. 1897

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives from the Federal agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage.

REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

SEC. 204. In addition to amounts otherwise authorized by this title, the head of the Federal agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 203 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either—

(1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed \$4,000, or

(2) the amount necessary to enable such person to make a downpayment (including incidental expenses described in section 203(a)(1)(C)) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed \$4,000, except that if such amount exceeds \$2,000, such person must equally match any such amount in excess of \$2,000, in making the downpayment.

RELOCATION ASSISTANCE ADVISORY SERVICES

SEC. 205. (a) Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after the effective date of this section, the head of such agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection (c) of this section. If such agency head determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

SUBPART 104I-71.9 EXHIBITS

104I-71,901-5

January 2, 1971

Pub. Law 91-646

84 STAT. 1898

(b) Federal agencies administering programs which may be of assistance to displaced persons covered by this Act shall cooperate to the maximum extent feasible with the Federal or State agency causing the displacement to assure that such displaced persons receive the maximum assistance available to them.

(c) Each relocation assistance advisory program required by subsection (a) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

(1) determine the need, if any, of displaced persons, for relocation assistance;

(2) provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) assure that, within a reasonable period of time, prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by such Federal agency head, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived;

(4) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons; and

(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(d) The heads of Federal agencies shall coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

SEC. 206. (a) If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project.

(b) No person shall be required to move from his dwelling on or after the effective date of this title, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 205(c) (3), is available to such person.

STATE REQUIRED TO FURNISH REAL PROPERTY INCIDENT TO FEDERAL ASSISTANCE (LOCAL COOPERATION)

SEC. 207. Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the pro-

104I-71,901-6

Pub. Law 91-646

January 2, 1971

84 STAT. 1899

gram or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 210 and 305 of this Act. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first \$25,000 of the cost of providing such payments and assistance.

STATE ACTING AS AGENT FOR FEDERAL PROGRAM

Sec. 208. Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this Act, be deemed an acquisition by the Federal agency having authority over such program or project.

PUBLIC WORKS PROGRAMS AND PROJECTS OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Sec. 209. Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 210 and 211 of this title, and such acquisition will result in the displacement of any person on or after the effective date of this Act, the Commissioner of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by this Act. Whenever real property is acquired for such a program or project on or after such effective date, such Commissioner or Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by title III of this Act.

REQUIREMENTS FOR RELOCATION PAYMENTS AND ASSISTANCE OF FEDERALLY ASSISTED PROGRAM; ASSURANCES OF AVAILABILITY OF HOUSING

Sec. 210. Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this title, unless he receives satisfactory assurances from such State agency that—

- (1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 202, 203, and 204 of this title;
- (2) relocation assistance programs offering the services described in section 205 shall be provided to such displaced persons;
- (3) within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with section 205(c)(3).

Soil Conservation Service Property Management Regulations  
(Amendment A-3, May 1977)

SCSPMR-7140

SUBPART 104I-71.9 EXHIBITS

104I-71,901-7

January 2, 1971

Pub. Law 91-646

84 STAT. 1900

FEDERAL SHARE OF COSTS

SEC. 211. (a) The cost to a State agency of providing payments and assistance pursuant to sections 206, 210, 215, and 305, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution the Federal agency shall pay the full amount of the first \$25,000 of the cost to a State agency of providing payments and assistance for a displaced person under sections 206, 210, 215, and 305, on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Federal agency shall loan such State agency the full amount of the first \$25,000 of such cost.

(b) No payment or assistance under section 210 or 305 shall be required or included as a program or project cost under this section, if the displaced person receives a payment required by the State law of eminent domain which is determined by such Federal agency head to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available.

(c) Any grant to, or contract or agreement with, a State agency executed before the effective date of this title, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this Act, shall be amended to include the cost of providing payments and services under sections 210 and 305. If the head of a Federal agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to sections 206, 210, 215, and 305.

ADMINISTRATION—RELOCATION ASSISTANCE IN PROGRAMS RECEIVING  
FEDERAL FINANCIAL ASSISTANCE

SEC. 212. In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under sections 206, 210, and 215 of this title, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this title through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 206, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

REGULATIONS AND PROCEDURES

SEC. 213. (a) In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by

104I-71,901-8

Pub. Law 91-646

January 2, 1971

84 STAT. 1901

Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall consult together on the establishment of regulations and procedures for the implementation of such programs.

(b) The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure—

(1) that the payments and assistance authorized by this Act shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this title shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this Act, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

(c) The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this Act, as he deems necessary or appropriate to carry out this Act.

ANNUAL REPORT

Presidential  
report to  
Congress.

Sec. 214. The head of each Federal agency shall prepare and submit an annual report to the President on the activities of such agency with respect to the programs and policies established or authorized by this Act, and the President shall submit such reports to the Congress not later than January 15 of each year, beginning January 15, 1972, and ending January 15, 1975, together with his comments or recommendations. Such reports shall give special attention to: (1) the effectiveness of the provisions of this Act assuring the availability of comparable replacement housing, which is decent, safe, and sanitary, for displaced homeowners and tenants; (2) actions taken by the agency to achieve the objectives of the policies of Congress, declared in this Act, to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by, or having real property taken for, Federal or federally assisted programs; (3) the views of the Federal agency head on the progress made to achieve such objectives in the various programs conducted or administered by such agency, and among the Federal agencies; (4) any indicated effects of such programs and policies on the public; and (5) any recommendations he may have for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws and regulations.

PLANNING AND OTHER PRELIMINARY EXPENSES FOR ADDITIONAL HOUSING

Sec. 215. In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such project receiving Federal financial assistance, to nonprofit, limited

Soil Conservation Service Property Management Regulations  
(Amendment A-3, May 1977)

SCSPMR-7142

104I-71.901-9

January 2, 1971

Pub. Law 91-646

84 STAT. 1902

dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts.

## PAYMENTS NOT TO BE CONSIDERED AS INCOME

SEC. 216. No payment received under this title shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

68A Stat. 3.  
26 USC 1  
et seq.  
49 Stat. 620.  
42 USC 1305.

## DISPLACEMENT BY CODE ENFORCEMENT, REHABILITATION, AND DEMOLITION PROGRAMS RECEIVING FEDERAL ASSISTANCE

SEC. 217. A person who moves or discontinues his business, or moves other personal property, or moves from his dwelling on or after the effective date of this Act, as a direct result of any project or program which receives Federal financial assistance under title I of the Housing Act of 1949, as amended, or as a result of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall, for the purposes of this title, be deemed to have been displaced as the result of the acquisition of real property.

63 Stat. 414;  
68 Stat. 622.  
42 USC 1450  
et seq.  
80 Stat. 1255.  
42 USC 3301  
note.

## TRANSFERS OF SURPLUS PROPERTY

SEC. 218. The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this title, any real property surplus to the needs of the United States within the meaning of the Federal Property and Administrative Services Act of 1949, as amended. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States all amounts received by such agency from any sale, lease, or other disposition of such property for such housing.

63 Stat. 377.  
40 USC 471  
note.

104I-71.901-10

Pub. Law 91-646

January 2, 1971

84 STAT. 1903

## DISPLACEMENT BY A SPECIFIC PROGRAM

SEC. 219. Notwithstanding any other provision of this title, a person—

(1) who moves or discontinues his business, moves other personal property, or moves from his dwelling on or after January 1, 1969, and before the 90th day after the date of enactment of this Act as the result of the contemplated demolition of structures or the construction of improvements on real property acquired, in whole or in part, by a Federal agency within the area in New York, New York, bounded by Lexington and Third Avenues and 31st and 32d Streets; and

(2) who has lived on, or conducted a business on, such real property for at least one year prior to the date of enactment of this Act;

may be considered a displaced person for purposes of sections 202 (a) and (b), 204, and 205 of this title, by the head of the agency acquiring the real property if—

(A) the head of the agency determines that such person has suffered undue hardship as the result of displacement from the real property; and

(B) the Federal Government acquired and held such property for at least five years prior to the date of enactment of this Act.

## REPEALS

SEC. 220. (a) The following laws and parts of laws are hereby repealed:

- (1) The Act entitled "An Act to authorize the Secretary of the Interior to reimburse owners of lands required for development under his jurisdiction for their moving expenses, and for other purposes," approved May 29, 1958 (43 U.S.C. 1231-1234).  
72 Stat. 152.
- (2) Paragraph 14 of section 203(b) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473).  
76 Stat. 384.  
76 Stat. 511.
- (3) Section 2680 of title 10, United States Code.  
78 Stat. 305.
- (4) Section 7(b) of the Urban Mass Transportation Act of 1965 (49 U.S.C. 1606(b)).  
78 Stat. 788.
- (5) Section 114 of the Housing Act of 1949 (42 U.S.C. 1465).  
78 Stat. 795.
- (6) Paragraphs (7)(b)(iii) and (8) of section 15 of the United States Housing Act of 1937 (42 U.S.C. 1415, 1415(8)), except the first sentence of paragraph (8).
- (7) Section 2 of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to pay relocation costs made necessary by actions of the District of Columbia government, and for other purposes", approved October 6, 1964 (78 Stat. 1004; Public Law 88-629; D.C. Code 5-729).
- (8) Section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074).  
79 Stat. 486.
- (9) Sections 107 (b) and (c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3307).  
80 Stat. 1259.
- (10) Chapter 5 of title 23, United States Code.  
82 Stat. 830.  
23 USC 501.
- (11) Sections 32 and 33 of the Federal-Aid Highway Act of 1968 (Public Law 90-495).  
82 Stat. 835.  
23 USC 501  
note, 510  
note.
- (b) Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions thereof under subsection (a) of this section.

January 2, 1971

Pub. Law 91-646

84 STAT. 1904

## EFFECTIVE DATE

SEC. 221. (a) Except as provided in subsections (b) and (c) of this section, this Act and the amendments made by this Act shall take effect on the date of its enactment.

(b) Until July 1, 1972, sections 210 and 305 shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections shall be completely applicable to all States.

(c) The repeals made by paragraphs (4), (5), (6), (8), (9), (10), (11), and (12) of section 220(a) of this title and section 306 of title III shall not apply to any State so long as sections 210 and 305 are not applicable in such State.

TITLE III—UNIFORM REAL PROPERTY ACQUISITION  
POLICY

## UNIFORM POLICY ON REAL PROPERTY ACQUISITION PRACTICES

SEC. 301. In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 1 of the Act of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a), for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

PART 104I-71 RELOCATION ASSISTANCE

104I-71,901-12

Pub. Law 91-646

January 2, 1971

84 STAT. 1905

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by title II will be available), or to move his business or farm operation, without at least ninety days' written notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire the entire property.

BUILDINGS, STRUCTURES, AND IMPROVEMENTS

SEC. 302. (a) Notwithstanding any other provision of law, if the head of a Federal agency acquires any interest in real property in any State, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.

(b) (1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (a) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection.

Soil Conservation Service Property Management Regulations  
(Amendment A-3, May 1977)

SCSPMR-7146

January 2, 1971

Pub. Law 91-646

84 STAT., 1906

## EXPENSES INCIDENTAL TO TRANSFER OF TITLE TO UNITED STATES

SEC. 303. The head of a Federal agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

- (1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;
- (2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and
- (3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

## LITIGATION EXPENSES

SEC. 304. (a) The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if—

- (1) the final judgment is that the Federal agency cannot acquire the real property by condemnation; or
- (2) the proceeding is abandoned by the United States.

(b) Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346 (a) (2) or 1491 of title 28, United States Code, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

62 Stat. 933;  
Ante, p. 449.  
68 Stat. 1241.

## REQUIREMENTS FOR UNIFORM LAND ACQUISITION POLICIES; PAYMENTS OF EXPENSES INCIDENTAL TO TRANSFER OF REAL PROPERTY TO STATE; PAYMENT OF LITIGATION EXPENSES IN CERTAIN CASES

SEC. 305. Notwithstanding any other law, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date of this title, unless he receives satisfactory assurances from such State agency that—

- (1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 301 and the provisions of section 302, and

PART 104I-71 RELOCATION ASSISTANCE

104I-71,901-14

Pub. Law 91-646

January 2, 1971

84 STAT. 1907

(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304.

**REPEALS**

79 Stat. 485.  
82 Stat. 836.  
74 Stat. 502.

Sec. 306. Sections 401, 402, and 403 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3071-3073), section 35(a) of the Federal-Aid Highway Act of 1968 (23 U.S.C. 141) and section 301 of the Land Acquisition Policy Act of 1960 (33 U.S.C. 596) are hereby repealed. Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Act or portions thereof under this section.

Approved January 2, 1971

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**LEGISLATIVE HISTORY:**

HOUSE REPORT No. 91-1656 (Comm. on Public Works).  
SENATE REPORT No. 91-488 (Comm. on Government Operations).  
CONGRESSIONAL RECORD:  
Vol. 115 (1969): Oct. 23, 27 considered and passed Senate.  
Vol. 116 (1970): Dec. 7, considered and passed House, amended.  
Dec. 17, Senate agreed to House amendments with amendments.  
Dec. 18, House concurred in Senate amendments.

Soil Conservation Service Property Management Regulations  
SCSPMR-7148 (Amendment A-3, May 1977)

§ 104I-71.902 U.S. Department of Agriculture Regulations  
Title 7, Part 21.

104I-71.902-1

# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

**Title 7—Agriculture**  
**SUBTITLE A—OFFICE OF THE**  
**SECRETARY OF AGRICULTURE**

**PART 21—UNIFORM RELOCATION AS-**  
**SISTANCE AND REAL PROPERTY AC-**  
**QUISITION POLICIES ACT OF 1970**

**Miscellaneous Amendments**

On August 19, 1975, there was published in the FEDERAL REGISTER (40 FR 36134) a notice of proposed rulemaking to amend and revise the uniform relocation assistance and real property acquisition policies of the Department.

Interested persons were given an opportunity to submit written data, views or arguments regarding the proposed amendments. No comments were received pursuant to the notice. The amendments are adopted without change, as set forth below.

*Effective date:* October 15, 1975.

Signed at Washington, D.C. on October 7, 1975.

JOSEPH R. WRIGHT, JR.,  
*Assistant Secretary*  
*for Administration.*

7 CFR Part 21 is amended as follows:

1. The table of sections is amended by adding § 21.504 as follows:

Subpart E—Replacement Housing for Homeowners (over 180 days)  
Displaced from Conventional Dwellings.

21.504 Advance payments in condemnation cases.

2. Section 21.202 is amended as follows:

§ 21.202 Business.

- (a) . . . . .
- (1) Insert the word "or" after the semi colon.
- (2) Insert the word "or" after the semi colon.

(b) During the two taxable years prior to displacement, or during such other period as the agency head determines to be more equitable, the business as described in § 21.202(a) (1), (2), or (3) must have

- (1) Had average annual gross receipts of at least \$2,000 in value; or
- (2) Had average annual net earnings of at least \$1,000 in value (see § 21.306); or
- (3) Contributed at least one-third of the average annual gross income of the

owner(s), including income from all sources, such as welfare if any.

3. Section 21.212 is amended by revising the last sentence in the introductory using the acquisition price determined by the court as compared to the actual price paid of the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(2) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency, an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(b) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination using the award as the acquisition price.

7. Section 21.605 is revised to read as follows:

§ 21.605 Making payment to a displaced person who rents replacement housing.

(a) The rental payment to be made shall be paid in a lump sum, except it shall be paid in installments if the displaced person so requests.

(b) Installment payments, not to exceed four equal annual installments, will be made if so requested provided the displacing agency determines that the displaced person is continuing to occupy decent, safe, and sanitary housing at the beginning of each annual period.

8. Section 21.606 is amended by revising paragraph (a) as follows:

§ 21.606 Purchase of a replacement dwelling.

(a) The amount of the payment shall be computed by determining the amount necessary to enable the displaced person to make a down payment and to cover incidental expenses on the purchase of the replacement housing. The amount determined shall be added to the amount required to be paid by the purchaser as points and/or origination or loan services fees if such fees are normal to real

estate transactions in the area, on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(1) The amount of the down payment shall be the lesser of:

- (i) The amount that would be required as a down payment for financing a conventional loan on a comparable dwelling; or
- (ii) The amount required as a down payment for financing a conventional loan on the replacement dwelling actually purchased.

[FR Doc. 75-27360 Filed 10-8-75; 8:48 am]

For corrections, additions and amendatory language to §§ 21.212, 21.302, 21.304 and 21.504 (Items 3 through 6). See FR Doc. 7528789, pages 50023 and 50024 which follow.

## RULES AND REGULATIONS

50023

**Title 7—Agriculture**  
**SUBTITLE A—OFFICE OF THE**  
**SECRETARY OF AGRICULTURE**  
**PART 21—UNIFORM RELOCATION AS-**  
**SISTANCE AND REAL PROPERTY AC-**  
**QUISITION POLICIES ACT OF 1970**

**Regulations Corrected**

In FR Doc. 75-27360 appearing at page 47751 in the *FEDERAL REGISTER* of October 10, 1975, the following corrections are made.

On page 47751, second column, the amendatory language to § 21.212 is corrected to read as follows:

3. Section 21.212 is amended by revising the last sentence in the introductory paragraph and paragraphs (a), (b) and (c) to read as follows:

**§ 21.212 Farm Operation.**

• • • The activity is capable of contributing materially if, during the immediately preceding two-year period or the period of operation, whichever is the lesser, or during such other period as the agency head determines to be more equitable, the value of sales and the market value of home use contributes:

(a) Average annual gross receipts of at least \$2,000 in value; or

(b) Average annual net earnings of at least \$1,000 in value; (see § 21.308) or

(c) At least one-third of the average annual gross income of the owner(s), including income from all sources, such as welfare if any.

The following amendatory language to §§ 21.302, 21.304 and Subpart E was inadvertently omitted:

50024

4. Section 21.302 is amended as follows:

**§ 21.302 Extent of eligibility.**

(a) • • •

(3) By deleting this paragraph in its entirety.

5. Section 21.304 is amended by revising paragraph (c).

**§ 21.304 Fixed payment.**

(c) Where a person is displaced from a part of his farm operation the fixed payment shall be made if the displacing agency determines that the part taken met the definition of a farm operation prior to the taking, or the taking caused the operator to be displaced from the farm operation on the remaining land, or the taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

6. Subpart E is amended by adding a new § 21.504 as follows:

**§ 21.504 Advance payments in condemnation cases.**

(a) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The displacing agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, provided the homeowner enters into an agreement with the agency that:

(1) Upon final determination of condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(2) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency, an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(b) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination using the award as the acquisition price.

Dated: October 20, 1975.

JOSEPH R. WRIGHT, Jr.,  
 Assistant Secretary  
 for Administration.

[FR Doc. 75-28780 Filed 10-24-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 208—TUESDAY, OCTOBER 28, 1975

Soil Conservation Service Property Management Regulations  
 (Amendment A-3, May 1977)  
 SCSMPR-7150

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

**Title 7—Agriculture**  
**Subtitle A—Office of the Secretary of Agriculture**

**PART 21—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970**

On November 16, 1972, notice of proposed final regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 was published in FEDERAL REGISTER (37 FR 24357). On November 25, 1972, the word "unlawful" in the first line of § 21.202(a) was changed to read "lawful" (37 FR 25042).

After consideration of all such relevant matter as was presented by interested persons, the proposed final regulation is hereby adopted subject to the following changes:

1. Paragraph (c) of § 21.202 is deleted.
2. The word "parttime" in line 13 of § 21.209 should be hyphenated as follows "part-time".
3. In line 7 of § 21.212 the word "contribute" is changed to read "be capable of contributing".
4. The last sentence of § 21.212 is changed as set forth below.
5. In line 7 of § 21.221 a typographical error in the word "contract" is corrected.
6. Paragraphs (a) (1), (2), and (3) of § 21.302 are changed as set forth below.
7. Section 21.309 is changed as set forth below.
8. Paragraph (c) of § 21.1008 is changed as set forth below.
9. Existing paragraph (d) is changed to read paragraph (e) and a new paragraph (d) is added.

**Effective date.**—These final regulations take effect April 30, 1973.

JOSEPH R. WRIGHT, JR.,  
*Assistant Secretary  
 for Administration.*

APRIL 23, 1973.

**Subpart A—Policies**

- |   |  |
|---|--|
| <p>Sec.<br/>21.101<br/>21.102<br/>21.103<br/>21.104<br/>21.105<br/>21.106<br/>21.107<br/>21.108<br/>21.109<br/>21.110</p> | <p>Purpose.<br/>Effective date.<br/>Application for relocation assistance payment.<br/>Appeal rights.<br/>Leasing to former owner or tenant.<br/>Displacement prerequisites.<br/>Adjustments.<br/>Waivers.<br/>Criteria for new construction and loans.<br/>Coordination among agencies.</p> |
|---|--|

**Subpart B—Definitions**

- |                          |                                   |
|--------------------------|-----------------------------------|
| <p>21.201<br/>21.202</p> | <p>Agency head.<br/>Business.</p> |
|--------------------------|-----------------------------------|

- |   |  |
|---|--|
| <p>Sec.<br/>21.203<br/>21.204<br/>21.205<br/>21.206<br/>21.207<br/>21.208<br/>21.209<br/>21.210<br/>21.211<br/>21.212<br/>21.213<br/>21.214<br/>21.215<br/>21.216<br/>21.217<br/>21.218<br/>21.219<br/>21.220<br/>21.221<br/>21.222<br/>21.223<br/>21.224<br/>21.225<br/>21.226</p> | <p>Comparable replacement dwelling.<br/>Decent, safe, and sanitary.<br/>Department.<br/>Displacing agency.<br/>Displaced person.<br/>Displacement notice.<br/>Dwelling.<br/>Economic rent.<br/>Family.<br/>Farm operation.<br/>Federal financially assisted program or project.<br/>Federal program or project.<br/>Financial means.<br/>Initiations of negotiations.<br/>Mortgage.<br/>Notice to vacate.<br/>Owner.<br/>Person.<br/>Purchase of a replacement dwelling.<br/>Rental rate.<br/>Replacement dwelling.<br/>State.<br/>State agency.<br/>Tenant.</p> |
|---|--|

**Subpart C—Moving and Related Expenses**

- |   |   |
|---|---|
| <p>21.301<br/>21.302<br/>21.303<br/>21.304<br/>21.305<br/>21.306<br/>21.307<br/>21.308<br/>21.309</p> | <p>Recipient eligibility.<br/>Extent of eligibility.<br/>Actual expenses payment.<br/>Fixed payment.<br/>Actual reasonable expenses in moving.<br/>Actual direct losses—business or farm operation.<br/>Actual reasonable expenses in searching—business and farm operation.<br/>Determination of average annual net earnings.<br/>Mobile home.</p> |
|---|---|

**Subpart D—Replacement Housing—General**

- |                                     |   |
|-------------------------------------|---|
| <p>21.401<br/>21.402<br/>21.403</p> | <p>Certificate of eligibility.<br/>Selecting a method for determining purchase price or rental rate for a comparable replacement dwelling.<br/>Other.</p> |
|-------------------------------------|---|

**Subpart E—Replacement Housing for Homeowners (own 180 days) Displaced from Conventional Dwellings**

- |                                     |   |
|-------------------------------------|---|
| <p>21.501<br/>21.502<br/>21.503</p> | <p>Eligibility.<br/>Maximum payment.<br/>Costs eligible for payment by displacing Agency.</p> |
|-------------------------------------|---|

**Subpart F—Replacement Housing for Tenants and Certain Others (Displaced from Conventional Dwellings)**

- |  |  |
|--|--|
| <p>21.601<br/>21.602<br/>21.603<br/>21.604<br/>21.605<br/>21.606</p> | <p>Eligibility.<br/>Maximum payment.<br/>Computing rental payments for displaced tenants renting replacement housing.<br/>Computing rental payments for displaced owner occupants renting replacement housing.<br/>Making payment to a displaced person who rents replacement housing.<br/>Purchase of a replacement dwelling.</p> |
|--|--|

**Subpart G—Replacement Housing for Mobile Home Occupants**

- |                                   |  |
|-----------------------------------|--|
| <p>Sec.<br/>21.701<br/>21.702</p> | <p>Eligibility.<br/>Extent of eligibility.</p> |
|-----------------------------------|--|

**Subpart H—Relocation Assistance Advisory Services**

- |                                     |   |
|-------------------------------------|---|
| <p>21.801<br/>21.802<br/>21.803</p> | <p>Policy<br/>Advisory services.<br/>Contracting for advisory services.</p> |
|-------------------------------------|---|

**Subpart I—Federal Financially Assisted Projects**

- |  |  |
|--|--|
| <p>21.901<br/>21.902<br/>21.903<br/>21.904<br/>21.905<br/>21.906<br/>21.907<br/>21.908<br/>21.909<br/>21.910<br/>21.911<br/>21.912</p> | <p>Assurance by State agency.<br/>Execution and amendments of agreements.<br/>Project cost.<br/>Exception.<br/>Advances by Department.<br/>Housing standards.<br/>Organization and facilities.<br/>Compliance.<br/>Records.<br/>Performance by contract.<br/>Furnishing real property.<br/>State agency acting as agent for Federal project.</p> |
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**Subpart J—Real Property Acquisition**

- |  |   |
|--|---|
| <p>21.1001<br/>21.1002<br/>21.1003<br/>21.1004<br/>21.1005<br/>21.1006<br/>21.1007<br/>21.1008<br/>21.1009</p> | <p>General.<br/>Acquisition by agreement.<br/>Appraisal.<br/>Establishing just compensation.<br/>Initiation of negotiations.<br/>Condemnation.<br/>Expenses incidental to transfer of title.<br/>Buildings, structures and improvements.<br/>Lease to former owner or occupant.</p> |
|--|---|

**Subpart K—Report**

- |                |  |
|----------------|--|
| <p>21.1101</p> | <p>Annual report.<br/>AUTHORITY: The provisions of this Part 21 issued under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894.</p> |
|----------------|--|

**Subpart A—Policies**

**§ 21.101 Purpose.**

The regulations in this part prescribe policies and procedures for the U.S. Department of Agriculture in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646 (84 Stat. 1894), herein called the Act, effective January 2, 1971. The Act provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and Federal financially assisted programs and establishes uniform and equitable land acquisition policies for Federal and Federal financially assisted programs.

**§ 21.102 Effective date.**

- (a) The regulations in this part shall be effective on date of publication.
- (b) Any claims made under the Act shall be adjudicated on the basis of the

10624

## RULES AND REGULATIONS

regulations in effect when the claim was filed.

**§ 21.103 Application for relocation assistance payment.**

A displaced person, business, or farm operation must make proper application to the displacing agency for relocation assistance payments within 18 months from the date on which the move was made from the real property acquired or to be acquired, or the date on which the acquiring agency makes final payment of all costs of acquiring that real property, whichever is the later date. The displacing agency may extend this period upon showing of good cause. Prompt payment will be made after a move and submittal of proper application. Advanced payment may be made if the displacing agency determines that delaying payment until after the move will create a hardship.

**§ 21.104 Appeal rights.**

Any person aggrieved by a determination as to eligibility for a relocation payment, or the amount of a payment in a Federal project may have his application reviewed by the Secretary of Agriculture or his designee, or in the case of a project receiving Federal financial assistance, by the head of the displacing agency.

**§ 21.105 Leasing to former owner or tenant.**

The head of a displacing agency may permit use of or lease realty back to former owners or tenants for a period of not more than 1 year, and may also extend or renew such permits or leases for successive periods of not more than 1 year.

**§ 21.106 Displacement prerequisites.**

A displacing agency shall take no action that will result in a displacement until the following conditions are met.

(a) Assurance of comparable replacement dwelling. No phase of any project will be initiated or continued if that phase will cause the displacement of any individual or family from a dwelling until the displacing agency has determined on the basis of a current survey and analysis of available comparable replacement dwellings that prior to displacement a comparable replacement dwelling will be available for each such displaced individual or family.

(b) Displacement notice. Each individual, family, business, or farm operation to be displaced must be given a written notice of displacement. The notice shall be served personally or by certified or registered first-class mail not later than initiation of negotiations.

(c) Payment for real property. An owner will not be required to surrender possession of the real property acquired until the acquiring agency has paid the agreed purchase price, or deposited with the court for the benefit of the owner, an amount not less than the approved appraisal of the real property being acquired.

(d) Notice to vacate. The construction or development of a project will be

so scheduled that to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a comparable replacement dwelling will be available), or to move his business or farm operation without at least 90 days' written notice prior to the date on which such move is required. The notice shall be served personally or by certified or registered first-class mail. A notice of less than 90 days may be given only in an emergency or other extraordinary situations, or when the personal property to be moved is not associated with a displacement from a dwelling, business, or farm operation. When it is proposed to give an advance notice of less than 90 days, the prior approval of the agency head will be obtained.

**§ 21.107 Adjustments.**

The agency head may make adjustments in the requirements for decent, safe, and sanitary dwellings only in cases involving unusual circumstances or in unique geographic areas.

**§ 21.108 Waiver.**

The agency head may waive the requirements of § 21.106(a) in emergencies or other extraordinary situations where immediate possession of real property is crucial. Each waiver shall be supported by appropriate findings and a determination of the necessity for the waiver. These determinations shall be included in the annual report required by § 21.1101.

**§ 21.109 Criteria for new construction and loans.**

(a) If the agency head determines that adequate comparable replacement dwellings are not available, action may be taken by the agency head or he may approve action by a State agency to develop replacement dwellings. Any action taken or approved shall be in accordance with the guidelines issued by the Secretary of Housing and Urban Development (24 CFR Part 43).

(b) The agency head shall be guided by the criteria and procedures developed by the Secretary of Housing and Urban Development (24 CFR Part 43) when providing loans to eligible borrowers for planning and other preliminary expenses for additional housing for displaced persons.

**§ 21.110 Coordination among agencies.**

(a) When more than one Federal, departmental, or State agency, is causing the displacement in a community or an area, the displacing agency shall seek the cooperation of the other agency or agencies on the method for computing the replacement housing payment and on the use of uniform schedules of sale and rental housing in the community or area.

(b) When more than one agency is administering a relocation assistance advisory program which may be of assistance in the community or area to displaced persons all agencies shall cooperate so as to eliminate duplication while combining forces in assuring uni-

form application of the Act so that all displaced persons receive the maximum assistance available to them.

(c) An agency causing displacements from dwellings will provide the Housing and Urban Development regional or area office with information regarding the project which will cause displacement, and consult with such offices concerning the availability of housing.

**Subpart B—Definitions**

**§ 21.201 Agency head.**

The head of the agency of the department responsible for the project which requires land acquisition or displacement, or any individual authorized to act for him in implementing these regulations.

**§ 21.202 Business.**

(a) Any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purposes of section 21.303, outdoor advertising signs erected and maintained for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property, or services whether or not located on the premises of the foregoing businesses.

(b) Part-time occupations must contribute at least:

(1) \$2,500 net income or

(2) One-third of the net income of the displaced person or family to qualify as a business under these regulations.

**§ 21.203 Comparable replacement dwelling.**

A comparable replacement dwelling is one which is decent, safe, and sanitary and is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of title VIII of the Civil Rights Act of 1968.

(c) In areas not generally less desirable than the dwelling to be acquired in regard to neighborhood conditions, including, but not limited to, municipal services and other environmental factors, and public, commercial, and community facilities.

(d) Reasonably accessible to the displaced person's place of employment.

(e) Available on the market to the displaced person at rents or prices within the financial means of the displaced person.

(f) Adequate in size to meet the needs of the displaced family or individual. At the option of the displaced person, a replacement dwelling may exceed his need when the replacement dwelling has the

## RULES AND REGULATIONS

10625

approximate square footage as the dwelling from which he was displaced.

**§ 21.204 Decent, safe, and sanitary dwelling.**

A dwelling which is clean, in good repair, and in sound and weather tight condition, which meets local housing codes, if any, and also meets the following requirements:

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes. In the absence of local codes see § 21.107.

(b) *Nonhousekeeping unit.* A non-housekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. In the absence of local code standards see § 21.107.

**§ 21.205 Department.**

The U.S. Department of Agriculture.

**§ 21.206 Displacing agency.**

The Department agency for a Federal project, and the State agency for a Federal financially assisted project, which acquires real property.

**§ 21.207 Displaced person.**

Any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the actual acquisition of such real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program or project undertaken by the Department or with Federal financial assistance provided by the Department. If a person moves as the result of such a notice, it makes no difference whether or not the real property actually is acquired.

**§ 21.208 Displacement notice.**

A displacement notice is a written notice given to persons that may be displaced as a result of a proposed acquisition. This notice shall state the acquiring agency's desire to acquire the property and notify the persons of their rights under the Act and these regulations if they are displaced. The notice shall be given to such persons not later than the initiation of negotiations for the property to be acquired.

**§ 21.209 Dwelling.**

Dwelling includes a single family building; a one family unit in a multi-family building; a unit of a condominium or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost. For purposes of Subparts E, F, and G of this part the term "dwelling" shall mean the place of permanent abode of a person and does not

include seasonal or part-time dwelling units such as beach houses, mountain or other vacation cabins.

**§ 21.210 Economic rent.**

Economic rent is the amount of rent the displaced person would have had to pay for a similar dwelling unit located in an area not generally less desirable than the location of the dwelling to be acquired.

**§ 21.211 Family.**

Two or more individuals living together in the same dwelling as a single family unit and who are related to each other by blood, marriage, adoption, or legal guardianship. Others who live together as a family unit will be treated as a family.

**§ 21.212 Farm operation.**

Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operators support. The activity is capable of contributing materially if the value of the net sales and market value of home use contributes, for the immediately preceding 2-year period, or if occupied less than 2 years, the lesser period of occupancy, (a) average annual net earnings of at least \$2,500, or (b) at least one-third of the total annual net earnings of the displaced person during that period. (See § 21.308.)

**§ 21.213 Federal financially assisted program or project.**

Any program or project administered by the Department or by a State agency in which a grant, loan, or contribution is provided to the State agency by the Department. Federal contracts of guaranty or insurance are excluded.

**§ 21.214 Federal program or project.**

Any program or project administered by the Department in which real property interest is acquired by, remains in, or is transferred to Federal ownership or control.

**§ 21.215 Financial means.**

Financial means is the ability of a displaced family or individual to afford a replacement dwelling without jeopardizing the other needs of the displaced family or individual such as food, clothing, child care, and medical expenses. For purposes of this regulation the average housing cost (monthly mortgage or rental payments, insurance for the dwelling unit, property taxes, utilities, and other reasonable recurring related expenses) which the displaced family or individual will be required to pay should generally be less than 25 percent of the monthly gross income or the present ratio of housing payment to income including supplemental payments made by public agencies.

**§ 21.216 Initiation of negotiations.**

The date the acquiring agency furnishes the property owner or his repre-

sentative a written offer to purchase the real property.

**§ 21.217 Mortgage.**

Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under the law of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

**§ 21.218 Notice to vacate.**

A notice to vacate is a written notice to the persons to be displaced of the date on which they must have moved from the property being acquired.

**§ 21.219 Owner.**

A person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the displacing agency, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interest by devise, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

**§ 21.220 Person.**

Any individual, family, partnership, corporation, or association.

**§ 21.221 Purchase of a replacement dwelling.**

Purchase of a replacement dwelling shall mean (a) acquisition of an existing dwelling, (b) acquisition and rehabilitation of a substandard dwelling, (c) relocation, or relocation and rehabilitation of an existing dwelling, (d) construction of a new dwelling, (e) contract to purchase a dwelling to be constructed on a site provided by a builder or developer, or (f) contract for the construction of a dwelling on a site which the displaced person owns or acquires for this purpose. If construction or rehabilitation is required in the instances cited herein and completion of the construction or rehabilitation is delayed beyond the end of the 1-year period, the displacing agency may establish the date of occupancy as the date that the displaced person enters into a contract for such construction or rehabilitation or for the purchase upon completion of a dwelling to be constructed or rehabilitated on a site provided by a builder or developer: *Provided*, The displacing agency determines that the delay was for reasons not within the reasonable control of the displaced person, and the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed. Payment by the displacing agency will not be made until the displaced person has occupied the replacement dwelling.

**§ 21.222 Rental rate.**

The amount paid or determined to be appropriate for the bare premises exclu-

10626

## RULES AND REGULATIONS

sive of such items as utilities and other services.

§ 21.223 Replacement dwelling.

A replacement dwelling is one which is at least decent, safe, and sanitary.

§ 21.224 State.

Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

§ 21.225 State agency.

Any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

§ 21.226 Tenant.

A person who leases, rents, lawfully occupies or temporarily possesses real property, or a mobile home classified as personal property, of another by any kind of right.

Subpart C—Moving and Related Expenses

§ 21.301 Recipient eligibility.

A displaced person, business, or farm operation is eligible to receive payments for moving and related expenses described in § 21.303 or a fixed relocation payment described in § 21.304.

§ 21.302 Extent of eligibility.

(a) Each owner-occupant, tenant-occupant, or family, who is displaced from a dwelling may elect to receive either the payment described in § 21.303 (a) or the fixed payment described in § 21.304(a) except:

(1) Two or more persons, not a family, living together in a single family unit who are displaced from the unit will be regarded as one displaced person insofar as their eligibility for receiving the fixed payment for moving expenses described in § 21.304(a). Each individual in such group is eligible to receive actual moving and related expenses described in § 21.303 (a) if the group does not elect to receive the fixed payment.

(2) No member of a displaced person's family living in the same single family unit is eligible for separate payment for moving expenses.

(3) Any person, other than a member of the family, who is renting a room within the single family unit is eligible for moving expenses under § 21.303(a), but is not eligible to elect to receive the fixed payment in § 21.304(a).

(b) Any displaced business or farm operation may elect to receive either the payment described in § 21.303 or the payment described in § 21.304.

(c) Any displaced owner-occupant of a multifamily dwelling who earns income from such dwelling and qualifies as a business, is eligible for payments for actual moving and related expenses described in § 21.303, for both dwelling and business, or may elect to receive the fixed payments described in § 21.304, for both

dwelling and business, or he may elect to receive payment for the dwelling under one alternate and payment for the business under the other alternate.

(d) A person who lives on his business or farm property and is displaced from both his dwelling and business or farm property is eligible for payments for actual moving and related expenses described in § 21.303 for both dwelling and business or farm operation, or may elect to receive the fixed payment described in § 21.304 for both dwelling and business, or farm operation, or he may elect to receive payment for the dwelling under one alternate and payment for business or farm operation under the other alternate.

(e) A person displaced from a business or farm operation which causes such person to move from other real property used for his dwelling may elect to receive either the actual expense payment described in § 21.303(a) or the fixed payment described in § 21.304(a). If the displacement causes such person to move other personal property associated with the displaced business or farm operation from real property not acquired, he is eligible for the moving cost of such personal property as a part of the cost of moving the displaced business or farm operation.

(f) Outdoor advertising signs as defined in § 21.202(a) (4) when not a part of a displaced business are only eligible for actual expense payments described in § 21.303.

§ 21.303 Actual expenses payment.

(a) Actual reasonable expenses specified in § 21.305 in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses specified in § 21.306 of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount determined by the displacing agency to be equal to the reasonable expenses that would have been required to relocate such property; and

(c) Actual reasonable expense specified in § 21.307 in searching for a replacement site for the business or farm operation.

§ 21.304 Fixed payment.

(a) A displaced person who must vacate a dwelling may elect to receive in lieu of reimbursement for actual expenses described in § 21.303(a), a moving expense allowance not to exceed \$300 based on schedules for the area in which the displacement occurs maintained by State highway departments and approved by the Federal Highway Administration, plus a dislocation payment of \$200.

(b) A person who is displaced from his place of business, whether he discontinues or reestablishes the business, may elect to receive, in lieu of reimbursement for actual expense specified in § 21.303, a fixed relocation payment equal to the average annual net earnings of the business as determined in accordance with § 21.308 provided:

(1) The business is not a part of a commercial enterprise having at least one other establishment that is not being acquired which is engaged in the same or similar business; and

(2) The business cannot be relocated without a substantial loss of its existing patronage. The displacing agency will consider all pertinent circumstances in determining whether the business meets this requirement, including the type of business, the nature of the clientele, the relative importance of the present and proposed locations to the displaced business, and the availability of a suitable replacement location for the displaced person.

(c) A person who is displaced from his farm operation, whether he discontinues or reestablishes such operation, may elect to receive, in lieu of reimbursement for actual expenses specified in § 21.303, a fixed relocation payment equal to the average annual net earnings of the farm operation as determined in accordance with § 21.308. Where a displaced person is displaced from only a part of his farm operation, the fixed payment shall be made only if the displacing agency determines that the property remaining after the acquisition can no longer meet the definition of a farm operation.

(d) A displaced nonprofit organization whether it discontinues or reestablishes its operation, may elect to receive, in lieu of reimbursement for actual expenses specified in § 21.303, a fixed relocation payment equal to the average annual net earnings of the nonprofit organization as determined in accordance with § 21.308 if the displacing agency determines that:

(1) The nonprofit organization cannot be relocated without a substantial loss of its existing patronage which includes the persons, community, or clientele served or affected by its activities; and (2) the nonprofit organization is not a part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

(e) The payment provided in paragraphs (b), (c), and (d) of this section shall be not less than \$2,500 nor more than \$10,000.

§ 21.305 Actual reasonable expenses in moving.

(a) Items to be included in determining reasonable expenses are:

(1) Transportation of individuals, families, and personal property from acquired site to the replacement site, not to exceed an airline distance of 50 miles, except where the displacing agency determines that relocation cannot be accomplished within such area.

(2) Packing, unpacking, crating, and uncrating of personal property.

(3) Advertising for packing, unpacking, crating, uncrating, and transportation when the displacing agency determines that advertising for any of these services is necessary.

(4) Storage of personal property for a period generally not to exceed 12

## RULES AND REGULATIONS

10627

months when determined by the displacing agency to be necessary.

(5) Insurance premiums covering loss and damage of personal property while in transit or approved storage.

(6) Removal, reinstallation, and reestablishment, including such modification as deemed necessary by the displacing agency, of machinery, equipment, appliances, and other items not acquired as real property, and reconnection of utilities for such items. Prior to payment for any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and the displacing agency is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agents, or employees) in the process of moving, where insurance to cover such loss or damage is not obtainable.

(8) Such other reasonable expenses determined to be allowable by the agency head:

(b) Items to be excluded in determining reasonable expenses are:

(1) Additional expenses incurred because of living in a new location.

(2) Cost of moving structures and other improvements classed as real property in which the displaced person reserved ownership, except as otherwise provided by law.

(3) Improvements to the replacement site except when required by law.

(4) Interest on loans to cover moving expenses.

(5) Loss of goodwill.

(6) Loss of profits or income.

(7) Loss of trained employees.

(8) Personal injury.

(9) Cost of preparing the application for moving and related expenses.

(10) Payment for search cost in connection with locating a replacement dwelling.

(11) Such other items as the agency head determines should be excluded.

(c) Limitations are:

(1) If the displaced person moves himself, his family, business, farm operation, or other personal property by other than commercial means, the reimbursement allowance will not exceed the estimated cost of moving commercially based on the prevailing local rates for moving, unless the agency head determines that a greater amount is justified.

(2) If an item of personal property used in connection with a business or farm operation is not moved, but sold and replaced at the new location with a comparable item, reimbursement will not exceed the replacement cost minus the proceeds from the sale, or the estimated cost of moving whichever is less.

(3) If personal property used in connection with a displaced business or farm operation is of low value and high bulk, and the cost of removing, reinstalling, and reestablishing such property would be, in the judgment of the displacing agency, disproportionate in relation to its value, the allowable reimbursement for the expense of moving the personal

property will not exceed the difference between the amount that would have been received for such item on liquidation and the cost of replacing the same at the new location with a comparable item available on the market.

**§ 21.306 Actual direct losses—businesses or farm operations.**

(a) Payments for actual direct losses of tangible personal property are allowable where a person displaced from his place of business or farm operation is entitled to relocate his property, but does not do so. These property losses may include such items as equipment, machinery, or fixtures which are no longer required, where the business or farm operation is to be discontinued or the property is not suitable for use at the new location.

(b) If the displaced person does not move personal property and he makes a bona fide effort to sell it he may be reimbursed for the reasonable costs incurred in his efforts to sell the property, but not to exceed the estimated cost to move the property to the new location but not to exceed 50 airline miles except that the amount allowed for this purpose shall not exceed the difference between the cumulative amount allowed under the following items and the estimated cost of moving such items.

(1) If the business or farm operation is discontinued, the actual direct loss is the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, but not to exceed the estimated cost of moving 50 miles.

(2) If personal property is abandoned, the actual direct loss is the lesser of the fair market value of the property for continued use at its location prior to displacement, or the estimated cost of moving to the new location, not to exceed 50 airline miles.

(c) The cost to the displacing agency of removing abandoned personal property shall not be offset against other payments to the displaced person.

**§ 21.307 Actual reasonable expense in searching—business and farm operations.**

A displaced person whose business or farm is acquired may be reimbursed for his actual reasonable expense of searching for a replacement business or farm location. The maximum amount allowable for searching expense is \$500 for each displaced business or farm unless the agency head determines that a greater amount is justified based on the circumstances involved. Payment for these expenses are further limited to:

(a) Travel.

(1) Actual cost of common carrier.

(2) Eleven cents per mile for use of privately owned vehicle.

(b) Meals and lodging.

(1) Three dollars per meal but not to exceed \$9 per day per individual.

(2) Actual cost of lodging, but not to exceed \$20 per day per individual.

(c) Time. Time spent in searching at a flat rate of \$3 per hour, or at the rate of

the displaced person's salary or earnings, but not to exceed \$10 per hour. The maximum time allowed shall be 8 hours a day.

(d) Realtor assistance. Broker or realtor fees to locate a replacement site for a displaced business or farm operator only when the displacing agency determines in advance that it is necessary.

**§ 21.308 Determination of average annual net earnings.**

The average annual net earnings will be one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes for the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. Another period may be approved by the agency head if the business or farm operation was not in operation for the full 2-year period or if an unusually long time lag between public announcement of a project and the displacement results in a material reduction in the earnings of the business or farm operations for such 2-year period, or under other conditions clearly warranting a different period. The business or farm operation will be required to furnish pertinent portions of returns filed with the Internal Revenue Service for the applicable period, or other acceptable evidence of earnings if not required to file returns.

**§ 21.309 Mobile home.**

(a) When a mobile home used as a dwelling is deemed personal property and is moved from the acquired site, the displaced person, in requesting payment for the cost of moving the mobile home, may elect to receive either a fixed payment under the provisions of § 21.304(a) or the following actual reasonable costs as determined by the displacing agency.

(1) Moving the mobile home to a replacement site but not to exceed the cost of moving to a site 50 airline miles from the acquired site.

(2) Detaching and reattaching fixtures and appurtenances, where applicable.

(b) If a mobile home is not used as a dwelling, only the actual reasonable costs as determined by the displacing agency and detailed in § 21.309(a) (1) and (2) may be claimed.

**Subpart D—Replacement Housing—General**

**§ 21.401 Certificate of eligibility.**

Whenever a displaced person is eligible for a replacement housing payment except that he has not yet purchased a replacement dwelling, the displacing agency shall, at the request of the displaced person, provide a written statement to any interested person, financial institution or lending agency as to:

(a) The eligibility of the displaced person for a payment.

(b) The requirements that must be satisfied before such payment can be made.

10628

## RULES AND REGULATIONS

(c) The amount of the payment to be made by the displacing agency, provided the proposed replacement dwelling has been selected, or plans and specifications for the construction or rehabilitation of a proposed replacement dwelling are available, and the displacing agency has inspected and approved the selected dwelling or has reviewed and approved the plans and specifications for construction or rehabilitation.

§ 21.402 Selecting a method for determining purchase price or rental rate for a comparable replacement dwelling.

(a) The displacing agency may determine the amount necessary to purchase or rent, as appropriate, a comparable replacement dwelling by:

(1) A schedule method in which the displacing agency establishes a schedule of reasonable acquisition costs or rental rates of comparable replacement dwellings. The schedule should be based on current analysis of the market; or by

(2) The comparative method in which the displacing agency determines the reasonable acquisition cost or rental rate by selecting one or more comparable replacement dwellings that are most representative of the dwelling acquired. A single dwelling shall be used only when additional comparable replacement dwellings are not available.

(b) When neither the schedule method nor the comparative method is feasible, the agency head may develop other methods for computing replacement housing payments, or approve in advance other methods proposed by the displacing agency.

§ 21.403 Other.

(a) Payment for replacement housing to a displaced owner-occupant who moves from a one-family unit of a multifamily building owned by such person will be based on the cost of a comparable one-family unit in a multifamily building or if not available, a single-family structure, without regard to the number of units in the acquired multifamily building.

(b) Payment for replacement housing will not affect the eligibility of the displaced person to receive a payment for business earnings attributable to rental titles conducted in portions of the units or other legitimate business activities conducted in portions of the building.

(c) Two or more individuals, living together in a single-family dwelling, displaced from the dwelling will be regarded as one displaced person for the purpose of replacement housing.

**Subpart E—Replacement Housing for Homeowners (Over 180 Days) Displaced From Conventional Dwellings**

§ 21.501 Eligibility.

This subpart is applicable to a displaced person who:

(a) Actually owned and occupied the acquired dwelling for not less than 180

days immediately prior to initiation of negotiations for the property, and

(b) Purchases and occupies a replacement dwelling not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 21.502 Maximum payment.

The maximum payment which may be made by the displacing agency under this subpart is \$15,000.

§ 21.503 Cost eligible for payment by displacing agency.

Costs eligible for payment by the displacing agency under this subpart are:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.

(1) If the displaced person voluntarily purchases and occupies a replacement dwelling at a price less than the reasonable cost determined by the displacing agency for a comparable replacement dwelling, the displacing agency shall pay not more under this item than the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(2) If the displaced person voluntarily purchases and occupies a replacement dwelling at a price less than the acquisition price of the acquired dwelling, no payment is allowable under this paragraph (a).

(b) The amount, if any, which will compensate the displaced person for any increased interest cost and points which such person is required to pay for financing the acquisition of the replacement dwelling, provided that the acquired dwelling was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. This amount shall be computed on the basis of and limited to:

(1) The amount of the unpaid debt at the time of acquisition of the real property;

(2) The length of the remaining term of the mortgage at the time of acquisition;

(3) The prevailing interest rate and points currently charged by mortgage lending institutions in the vicinity; and

(4) The present worth of the future payments of increased interest, computed at the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) Reasonable expenses incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined by the displacing agency to be prepaid expenses:

(1) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(2) Lenders, FHA, or VA appraisal fee.

(3) FHA application fee.

(4) Certification of structural soundness when required by lender, FHA, or VA.

(5) Credit report.

(6) Title policy, certificate of title, or abstract of title.

(7) Escrow agent's fee.

(8) State revenue stamps, or sale or transfer taxes.

**Subpart F—Replacement Housing for Tenants and Certain Others (Displaced From Conventional Dwellings)**

§ 21.601 Eligibility.

(a) This subpart is applicable to a displaced person who:

(1) Is a tenant, or

(2) Is an owner-occupant who elects to lease or rent rather than purchase a replacement dwelling, or

(3) Is an owner-occupant who elects to purchase a replacement dwelling but has occupied the acquired dwelling for less than 180 days required by § 21.501 (a).

(b) A displaced person is eligible for a replacement housing payment under this subpart if he:

(1) Actually and lawfully occupied the acquired dwelling for not less than 90 days immediately prior to the initiation of negotiations for acquisition of the property.

(2) Purchases or rents and occupies a replacement dwelling not later than the end of the 1-year period beginning on the date on which he:

(i) If a tenant, moves from the acquired dwelling.

(ii) If an owner-occupant, receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or the date on which he moves from the acquired dwelling, whichever is the later date.

§ 21.602 Maximum payment.

The maximum payment which may be made by the displacing agency under this subpart is \$4,000 except that when the payment is made in connection with the purchase of a replacement dwelling the amount of the payment by the displacing agency in excess of \$2,000 must be matched by the displaced person.

§ 21.603 Computing rental payments for displaced tenants renting replacement housing.

(a) The displacing agency shall compute the amount of the payment to the tenant as follows:

(1) Multiply the monthly rental rate of the replacement dwelling or a comparable replacement dwelling, whichever is the lesser rate, by 48.

(2) Determine the average monthly rental rate paid by the displaced tenant

## RULES AND REGULATIONS

10629

for the acquired dwelling in the last 3 months prior to initiation of negotiations, provided such rent was reasonable. If such average rent paid was not reasonable, the displacing agency may use an economic rent amount for the acquired dwelling. If the displacing agency deems it advisable, more than 3 months may be used as a base for determining the average rental rate.

(3) Multiply the average monthly rental rate for the acquired dwelling as determined in subparagraph (2) of this paragraph, by 48.

(4) Subtract from the amount determined in subparagraph (1) of this paragraph, the amount determined in subparagraph (3) of this paragraph.

(b) If the displaced tenant is paying rent for the acquired dwelling to the displacing agency, economic rent shall be used in making the determination required by paragraph (a)(2) of this section.

**§ 21.604 Computing rental payments for displaced owner-occupants renting replacement housing.**

The displacing agency shall compute the amount of the rental payment to the displaced owner-occupant in the same manner as prescribed in § 21.603, except that economic rent shall be used in making the determination required by § 21.603(a)(2).

**§ 21.605 Making payment to a displaced person who rents replacement housing.**

(a) If the total rental payment to be made to the displaced person is in excess of \$1,000, payment will be made in four equal annual installments at the beginning of each annual period, provided that the displacing agency determines that the displaced person is continuing to occupy decent, safe, and sanitary housing at the beginning of each annual period.

(b) If the total rental payment to be made to the displaced person is \$1,000 or less, the payment shall be made in one lump sum at the beginning of occupancy of the replacement dwelling. The displacing agency need not thereafter determine whether occupancy of decent, safe and sanitary housing is continued.

**§ 21.606 Purchase of a replacement dwelling.**

(a) The amount of the payment shall be computed by determining the amount necessary to enable the displaced person to make a down payment and to cover expenses on the purchase of the replacement housing.

(1) The amount necessary for the down payment shall be based on the amount required for a conventional loan.

(2) Reasonable expenses incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined by the displacing agency to be prepaid expenses:

(i) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys,

preparing plats, and charges incident to recordation.

(ii) Lenders, FHA, or VA appraisal fee.

(iii) FHA application fee.

(iv) Certification of structural soundness when required by lender, FHA, or VA.

(v) Credit report.

(vi) Title policy, certificate of title, or abstract of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps, or sale or transfer taxes.

(b) The full amount of the payment must be applied to the purchase price and incidental costs shown on the closing statement.

**Subpart G—Replacement Housing for Mobile Home Occupants**

**§ 21.701 Eligibility.**

(a) The occupant of a mobile home located on an acquired site is eligible for a replacement housing differential payment to the extent stated in § 21.702 if he meets the following requirements:

(1) The mobile home is acquired by the displacing agency, or the site of the mobile home is acquired which results in the mobile home being removed.

(2) The person actually occupied the mobile home on the acquired site for not less than 90 days immediately prior to initiation of negotiations or date of receipt of displacement notice whichever is later.

(3) The person vacated the mobile home or mobile homestead as a result of the acquisition of the property or receipt of a notice to vacate.

**§ 21.702 Extent of eligibility.**

(a) A person displaced from a mobile home who is eligible for replacement housing payments may elect a mobile home or a conventional dwelling to serve as a replacement dwelling.

(1) Such displaced occupant of a mobile home will be eligible for replacement housing benefits to the same extent and subject to the same conditions as provided in Subpart E or Subpart F of this part depending on the period of occupancy of the mobile home on the acquired site and the degree of interest held in the acquired mobile home.

(i) Period of occupancy shall be determined on the basis of the date of initiation of negotiations or the date of receipt of a displacement notice, whichever is later.

(ii) Degree of interest, i.e., owner or tenant, will be that of the displaced occupant in the mobile home, exclusive of the interest held in the homesite.

(2) When either type of replacement dwelling is elected, the maximum allowable under § 21.503(a) or § 21.603 shall be computed on the basis of the lesser of:

(i) The amount the displaced person pays for a replacement dwelling; or

(ii) The amount determined by the displacing agency as necessary to provide a comparable replacement mobile home.

(b) The occupant of a mobile home not acquired but moved from the acquired homesite is eligible for a replacement homesite.

(1) Such occupant will be eligible for replacement homesite benefits to the same extent and subject to the same conditions as provided in Subpart E or Subpart F of this part depending on the period of occupancy of the mobile home on the acquired site and the degree of interest held in the acquired homesite.

(i) Period of occupancy shall be determined on the basis of the date of initiation of negotiations or the date of receipt of a displacement notice, whichever is the later.

(ii) Degree of interest, i.e., owner or tenant, will be that of the occupant in the homesite, exclusive of the interest held in the mobile home.

(2) The maximum allowable under § 21.503(a) or § 21.603 shall be computed on the basis of the lesser of:

(i) The amount the occupant of the mobile home pays for a replacement homesite; or

(ii) The amount determined by the displacing agency as necessary to provide a comparable replacement homesite.

**Subpart H—Relocation Assistance Advisory Services**

**§ 21.801 Policy.**

Whenever the acquisition of real property for a Federal or Federal financially assisted program or project will result in the displacement of any person, the displacing agency shall provide a relocation assistance advisory program for displaced persons. If such agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, that agency shall offer such person relocation assistance advisory services.

**§ 21.802 Advisory services.**

Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) Determine the need, if any, of displaced persons for relocation assistance.

(b) Provide current and continuing information on the availability, prices and rentals of comparable sale and rental replacement housing, and of comparable commercial properties and locations for displaced businesses and farm operations.

(c) Assure that, within a reasonable period of time prior to displacement, comparable replacement dwellings will be available for those to be displaced from dwellings.

(d) Assist a person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location.

(e) Supply information concerning housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons.

10630

## RULES AND REGULATIONS

(f) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(g) Advise displaced persons that they should notify the displacing agency before they move; and

(h) Inform affected persons of the benefits to which they may be entitled under the Act and these regulations.

**§ 21.803 Contracting for advisory services.**

The displacing agency may, by contract or otherwise, secure relocation assistance advisory services from any Federal, State, or local governmental agency or from any person or organization providing such service.

**Subpart I—Federal Financially Assisted Projects**

**§ 21.901 Assurances by State agency.**

(a) The agency head shall not approve a grant to or contract or agreement with a State agency unless he receives satisfactory assurances from such State agency that:

(1) Relocation payments, relocation assistance, and relocation assistance advisory services will be provided and comparable replacement dwellings will be available as provided in these regulations;

(2) In acquiring real property it will comply with the land acquisition policies provided in §§ 21.1001 through 21.1009 if compliance is legally possible under State law and in any event will reimburse owners for necessary expenses as specified in §§ 21.1006 and 21.1007; and

(3) It will furnish data for annual report required in § 21.1101.

(b) If a State agency maintains that it is legally unable to comply with the real property acquisition policies in §§ 21.1001 through 21.1006(b), and §§ 21.1008 through 21.1009, its statement to that effect shall be supported by an opinion of the chief legal officer of the State containing a full discussion of the facts and law involved. The agency head may accept this statement or the assurances so qualified as constituting compliance with this section.

(c) A grant to or contract or agreement with a State agency shall contain provisions requiring the State agency to comply with these regulations to the extent determined under this section.

**§ 21.902 Execution and amendment of agreements.**

Any grant to, or contract or agreement with a State agency under which Federal financial assistance is made available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall include or be amended to include the cost of providing payments and services set forth in these regulations.

**§ 21.903 Project cost.**

The cost to a State agency of providing payments and assistance pursuant to

these regulations shall be included as part of the cost of a program or project for which the Department furnishes financial assistance. The State agency will be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

**§ 21.904 Exception.**

No payment or assistance under these regulations will be required of a State agency, or include as a program or project cost if the displaced person receives a payment required by the State law of eminent domain which is determined by the agency head to have substantially the same purpose and effect as the payment and assistance required by these regulations.

**§ 21.905 Advances by Department.**

If the agency head determines that it is necessary for the expeditious completion of a project, he may advance to the State agency the Federal share of the cost of any payments or assistance required by these regulations.

**§ 21.906 Housing standards.**

The State agency will determine whether the replacement dwelling meets the standards prescribed under these regulations.

**§ 21.907 Organization and facilities.**

It will be the responsibility of the agency head to determine that the State agency provides adequate personnel and facilities to enable it to provide the payments and services required by these regulations.

**§ 21.908 Compliance.**

The Department will provide for the making of periodic inspections to ascertain whether payments and services are being provided and whether there is compliance otherwise with the assurances furnished.

**§ 21.909 Records.**

The grant to, or contract or agreement with the State agency shall provide that it will maintain such records as may be specified by the agency head for a period of 3 years and make them available to the agency head for inspection and audit at reasonable times.

**§ 21.910 Performance by contract.**

(a) The displacing agency may contract for the services specified in § 21.802 with any person or organization if it finds that such contract will prevent unnecessary expense, avoid duplication of functions, and promote uniform administration of relocation assistance programs.

(b) The solicitation of proposals, contract provisions, and administration shall be in accordance with State laws and with procedures prescribed by the agency head, but shall as a minimum include provisions:

(1) Required by Federal regulations implementing Title VI of the Civil Rights Act of 1964 (Public Law 82-352), and

(2) Requiring records relating to the contract to be maintained for a period of not less than 3 years and be available for inspection by representatives of the State agency and the agency head.

(c) In furnishing housing to the extent authorized under criteria and procedures set forth in § 21.109, the State agency shall, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration and conduct of similar housing assistance activities.

**§ 21.911 Furnishing real property.**

Whenever real property is acquired by a State agency and furnished as a required contribution to a Federal project, the agency head may not accept such property unless such State agency has made all payments and provided all assistance and assurances as are required of a State agency by these regulations. The cost of such requirements will be paid by the State agency, except the agency head will pay the full amount of the first \$25,000 of the cost of providing such payments and assistance in connection with each displacement occurring prior to July 1, 1972.

**§ 21.912 State agency acting as agent for federal project.**

Whenever real property is acquired by a State agency at the request of the agency head for a Federal project, such acquisition shall be deemed for the purposes of these regulations as an acquisition by the agency head.

**Subpart J—Real Property Acquisition**

**§ 21.1001 General.**

(a) Application of this subpart to State agencies carrying out Federal financially assisted programs is mandatory where compliance is legally possible under State law and in any event State agencies will reimburse owners for necessary expenses as specified in §§ 21.1006(c) and 21.1007.

(b) The provisions of this subpart do not apply to donations of land or land exchanges.

**§ 21.1002 Acquisition by agreement.**

Every reasonable effort will be made to (a) acquire real property by agreements with owners based on negotiations, (b) assure consistent treatment for owners, and (c) accomplish negotiations expeditiously. In no event shall negotiations be deferred nor any other action coercive in nature taken in order to compel an agreement.

**§ 21.1003 Appraisal.**

(a) Prior to initiation of negotiations, an appraisal of the fair market value of the real property interest to be acquired will be made by a qualified land appraiser.

(b) The owner or his designated representative will be given a reasonable opportunity to accompany the appraiser during his inspection of the property.

(c) Any decrease or increase in the fair market value of the property prior to the date of the appraisal which is caused

## RULES AND REGULATIONS

10631

by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in appraising the property.

(d) Where appropriate the estimate of the fair market value of the property to be acquired and the estimate of damages or offsetting benefits to the remaining property will be separately stated.

(e) Appraisers shall not give consideration to or include in their real property appraisals any allowances for the relocation benefits provided by these regulations.

(f) Each agency Head shall establish for all Federal or Federal financially assisted programs under his jurisdiction, criteria for determining the qualifications of appraisers and a system of review of appraisals by qualified appraisers. Standards for appraisals used in such programs shall be consistent with the Uniform Appraisal Standards for Federal Land Acquisitions published in 1972 by the Interagency Land Acquisition Conference.

**§ 21.1004 Establishing just compensation.**

(a) Prior to negotiations the displacing agency shall establish an amount it believes to be just compensation which in no event shall be less than the amount in the appraisal approved by the displacing agency.

(b) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the displacing agency shall offer to acquire the entire property.

**§ 21.1005 Initiation of negotiations.**

(a) When the just compensation has been established, a prompt offer will be made to acquire the real property for the full amount of the just compensation so established.

(b) When the offer is made, the owner of the real property will be provided with a written statement of (1) identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements considered to be a part of the real property, (2) the amount of the estimated just compensation as determined by the acquiring agency and a summary statement of the basis therefore, and (3) if only a portion of the property is to be acquired, a separate statement of the estimated just compensation for the real property interest to be acquired and damages and benefits to the remaining real property, if any.

(c) The offer of just compensation does not preclude further negotiations with respect to the purchase price.

(d) Tenants occupying the property shall be given a displacement notice not later than when negotiations for the property are initiated with the owner.

(e) Contracts or options to purchase real property shall not provide for any payments for relocation costs or reference to such payments.

**§ 21.1006 Condemnation.**

(a) The time of condemnation will neither be advanced, nor negotiations, condemnation and the deposit of funds in court be deferred, nor any other action coercive in nature taken in order to compel an agreement on price.

(b) If the real property is to be acquired by condemnation, proceedings will be instituted promptly. No action will be taken intentionally which will make it necessary for an owner to institute legal proceedings to prove the taking of his real property.

(c) If the final judgment of the court in a condemnation case is that the acquiring agency cannot acquire the real property by condemnation, or if the proceeding in condemnation is abandoned by the acquiring agency, the acquiring agency must pay the owner of the property such sum as will reimburse the owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the condemnation proceedings. If this cost is not covered by a court order, nevertheless the acquiring agency shall pay to the owner such costs.

(d) When the declaration of taking is filed in a Federal condemnation proceeding, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to other payments provided for by these regulations.

**§ 21.1007 Expenses incidental to transfer of title.**

As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award in a condemnation proceeding to acquire real property, the owner will be reimbursed to the extent the head of the displacing agency determines fair and reasonable, for expenses the owner necessarily incurred for:

(a) Recording fees, transfer taxes, and similar expenses incident to conveying the real property to the acquiring agency.

(b) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property, and

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is earlier.

**§ 21.1008 Buildings, structures and improvements.**

(a) Whenever any interest in real property is acquired, the acquiring agency shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property which such acquiring agency requires to be removed from the real property, or which the acquiring agency determines will be adversely affected by

the use to which such real property will be put.

(b) The following will apply in determining the just compensation for any such buildings, structures, or other improvements: (1) They will be deemed to be part of the real property to be acquired, notwithstanding the right or obligation of the tenant as against the owner of any other interest in the real property to remove them at the expiration of his term, and (2) the fair market value which such structures, buildings, or other improvements contribute to the fair market value of the real property to be acquired, or the fair market value of such buildings, structures, or other improvements for removal from the real property, whichever is greater, will be paid the tenant therefor, provided the tenant shall assign, transfer and release to the acquiring agency all his rights, title and interest in and to such improvements.

(c) Payments under this § 21.1008 will not be made which result in duplication of any payments otherwise authorized by law.

(d) Payments under this § 21.1008 will not be made unless the owner of the land involved disclaims all interest in such buildings, structures, or other improvements of the tenant.

(e) A tenant may reject payment under this § 21.1008 and obtain payment for the buildings, structures, or other improvements in accordance with any other applicable law.

**§ 21.1009 Lease to former owner or occupant.**

If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term, or for a period subject to termination by the acquiring agency on short notice, the amount of rent required will not exceed the fair rental value of the property to a short term occupier.

**Subpart K—Report**

**§ 21.1101 Annual report.**

Each agency head shall prepare and submit an annual report, on a fiscal year basis, to the Secretary of Agriculture. The first report will cover the period January 2, 1971 through June 30, 1971, with the final report covering the period July 1, 1973 through June 30, 1974.

(a) Each such report will include narrative comments regarding:

(1) The effectiveness of the provisions of the Act assuring the availability of comparable replacement housing for displaced persons;

(2) Actions taken to achieve the objectives of the policies of Congress to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by or having real property taken for Federal or Federal financially assisted programs;

(3) Views on the progress made to achieve the objectives stated in subparagraph (2) of this paragraph;

(4) Any indicated effects of such programs and policies on the public; and

10632

(5) Recommendations for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws, and regulations.

(b) Each such report will also include statistical data as prescribed by the Department.

(c) Summary statement on the waiver of assurances.

[FR Doc. 73-8209 Filed 4-27-73; 8:45 am]

**CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE**

**PART 215—SPECIAL MILK PROGRAM FOR CHILDREN**

**Second Apportionment of Special Milk Program Funds**

Pursuant to section 3 of the Child Nutrition Act of 1966, as amended, milk assistance funds available for the fiscal year ending June 30, 1973, are apportioned among the States as follows:

State	Total apportionment	State	Withheld for private schools
Alabama	\$1,413,072	\$1,340,083	\$68,990
Alaska	34,622	34,622	
Arizona	516,236	516,236	
Arkansas	667,705	667,705	
California	6,691,389	6,691,389	
Colorado	924,621	860,000	74,621
Connecticut	1,849,140	1,849,140	
Delaware	290,375	290,375	
Delaware State District Agency	19,278	19,278	
District of Columbia	369,600	369,600	
Florida	1,534,464	1,534,464	
Georgia	1,871,643	1,841,308	30,337
Hawaii	76,210	47,208	29,002
Idaho	181,627	161,935	19,692
Illinois	6,236,118	6,236,118	
Indiana	3,021,264	3,021,264	
Iowa	1,545,299	1,392,499	147,800
Kansas	901,089	901,089	
Kentucky	1,818,887	1,818,887	
Louisiana	783,892	783,892	
Maine	636,794	636,794	
Maryland	2,630,064	2,630,064	
Maryland Department of General Services	76,222	76,222	
Massachusetts	3,282,471	3,282,471	
Michigan	4,308,701	4,308,701	
Minnesota	2,760,802	2,760,802	
Mississippi	1,048,180	1,048,180	
Missouri	2,264,871	2,200,771	64,100
Montana	218,829	198,280	20,549
Nebraska	669,315	669,315	
Nevada	196,348	186,244	10,104
New Hampshire	690,827	690,827	
New Jersey	3,641,633	3,190,628	451,005
New Mexico	608,461	322,281	274,180
New York	7,701,198	7,701,198	
New York Office of General Services	386,272	386,272	
North Carolina	2,762,197	2,762,197	
North Dakota	484,434	484,434	
Ohio	6,797,801	6,146,261	651,540
Ohio Department of Public Welfare	170,066	170,066	
Oklahoma	801,808	801,808	
Oregon	668,361	678,779	10,418
Pennsylvania	5,117,344	4,981,878	135,466
Rhode Island	466,818	466,818	
South Carolina	1,126,398	1,029,648	96,750
South Dakota	328,650	328,650	
Tennessee	1,771,971	1,701,368	70,603
Texas	3,678,690	3,330,491	348,199
Utah	296,306	296,306	
Vermont	286,680	276,474	10,206
Virginia	1,821,880	1,707,286	114,594
Washington	1,388,887	1,188,040	200,847
West Virginia	523,752	368,162	155,590
Wisconsin	3,478,486	3,387,454	91,032
Wyoming	104,600	104,600	
<b>Total</b>	<b>94,886,281</b>	<b>90,968,247</b>	<b>3,918,034</b>

**RULES AND REGULATIONS**

(Secs. 2, 3, 6, and 9-16, 80 Stat. 885-890; 42 U.S.C. 1771, 1772, 1775, 1777-1785.)

Dated April 23, 1973.

EDWARD J. HEKMAN,  
Administrator.

[FR Doc. 73-8211 Filed 4-27-73; 8:45 am]

**CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

[Valencia Orange Reg. 426, Amdt. 1]

**PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA**

**Limitation of Handling**

**Correction**

In FR Doc. 73-7829 appearing at page 9987 in the issue of Monday, April 23, 1973, make the following changes:

1. In the third paragraph, third line, the word "proved" should read "provide".
2. In the 10th line of the first paragraph, first column, page 9988, the word "handler" should read "handlers".

**CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE**

**SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS**

**PART 1434—HONEY**

**Subpart—1973 Crop Honey Loan and Purchase Program**

**Correction**

In FR Doc. 73-7831 appearing at page 9988 in the issue of Monday, April 23, 1973, in the first column on page 9989, the effective date now reading "May 23, 1973", should read "April 23, 1973".

**CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE**

**SUBCHAPTER G—MISCELLANEOUS REGULATIONS**

**PART 1890w—EMERGENCY LOANS AND RURAL HOUSING DISASTER LOANS**

Subchapter G is amended by adding new part 1890w, Emergency Loans and Rural Housing Disaster Loans, supplementing and modifying current Farmers Home Administration regulations, including subparts A and B of part 1832 of this chapter, and to incorporate and implement the provisions of Public Law 93-24.

This Public Law provides for the Farmers Home Administration to make disaster-type loans in areas declared by the President or the Secretary of Agriculture. Such loans will be made only to those applicants who are unable to obtain the credit they need from conventional lenders. Interest will be charged at a rate not to exceed 5 percent and there will be no forgiveness benefit in

connection with these loans. Public Law 93-24 also contains a provision that authorizes the acceptance of applications under the provision of Public Law 92-385 in certain areas designated by the Secretary of Agriculture for 18 days.

In accordance with 5 U.S.C. 553, this new part is being published without notice of proposed rulemaking, effective immediately, since it incorporates and implements the provisions of Public Law 93-24 and because a delay in implementing the provisions of the Public Law by this regulation would be contrary to the public interest.

The new part 1890w reads as follows:

**PART 1890w—EMERGENCY LOANS AND RURAL HOUSING DISASTER LOANS**

**Sec.**

- 1890w.1 Emergency (EM) loans and Rural Housing Disaster (RHD) loans at 1 or 3-percent interest rate with a forgiveness benefit.
- 1890w.2 EM loans at 5-percent interest rate and no forgiveness benefit.
- 1890w.3 EM loans for refinancing purposes under § 1832.19 of this chapter.
- 1890w.4 RHD loans.
- 1890w.5 Handling EM loan and RHD loan applications in Presidential major disaster areas named prior to December 27, 1972.
- 1890w.6 Reporting.
- 1890w.7 Designation requests.

**AUTHORITY**—Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 510, 63 Stat. 437, 42 U.S.C. 1490; Orders of Acting Secretary of Agriculture, 36 FR 21529; 37 FR 22008; order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 FR 21529.

**§ 1980w.1 Emergency (EM) loans and Rural Housing Disaster (RHD) loans at 1 or 3 percent interest rate with a forgiveness benefit.**

(a) In all counties designated by the Secretary after January 1, 1972, and prior to December 27, 1972, which were not subsequently designated by the President because of the same disaster, where the designation was originally scheduled to expire on June 30, 1973, the following action will be taken:

(1) Applications for EM loans and RHD loans will be accepted and the date they are received in the county office will be stamped on the application. If application forms are not available, county offices should take and date applications on facsimiles or photocopies.

(2) Applications received in the county office on or before May 8, 1973, will be considered for loans on the same terms applicable at the time the EM and RHD loan programs were curtailed on December 27, 1972, for repair, rehabilitation or replacement of property including crops damaged or destroyed, not compensated for by insurance or otherwise. Such applications may be subject to audit. State directors will immediately notify county supervisors of the counties affected in their State.

(3) The news media, including newspapers, radio, and television in the affected counties, should be utilized to

§ 104I-71.903 Relocation Agreement.

UNITED STATES DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

State \_\_\_\_\_  
Project \_\_\_\_\_  
Site \_\_\_\_\_  
Contract No. \_\_\_\_\_

RELOCATION AGREEMENT

THIS AGREEMENT ENTERED INTO THIS \_\_\_\_ day of \_\_\_\_\_, 19\_\_, by and between \_\_\_\_\_, called the displacing agency, and the Soil Conservation Service, United States Department of Agriculture, called the Service.

WITNESSETH THAT:

WHEREAS, under the provisions of the (cite program name or authority) the displacing agency and the Service have agreed to a plan which provides for installing certain works of improvement in the above project; and

WHEREAS, in the said plan the displacing agency has agreed to acquire all land, easements and rights-of-way, called landrights, needed for the installation, operation and maintenance of said works of improvement; and

WHEREAS, the acquisition of said landrights will or may result in the displacement of persons from their dwellings, businesses or farm operations; and

WHEREAS, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, called the Relocation Act, requires uniform and equitable treatment of such displaced persons by the displacing agency; and

WHEREAS, U.S. Department of Agriculture regulations, referred to as the Regulations, prescribe policies and procedures for implementing the Relocation Act in projects such as that covered by this agreement; and

WHEREAS, a copy of the Regulations in effect as of the date of this agreement has been provided to the displacing agency;

NOW THEREFORE, the displacing agency and the Service agree as follows:

- A. This agreement relates to persons displaced under the provisions of the Regulations by the displacing agency for the following planned works of improvement in the \_\_\_\_\_ project, State of \_\_\_\_\_.

(Identify the specific works of improvement)

- B. The displacing agency will provide adequate personnel and facilities to enable it to furnish and it will furnish in a prompt, timely, uniform and equitable manner the relocation assistance advisory services and relocation payments to displaced persons as required by the Regulations.
- C. The displacing agency shall cooperate with other federal or state agencies causing displacements under the Act to help assure that all displaced persons receive the maximum assistance available to them.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.903-2

- D. The Comptroller General of the United States or his duly authorized representative and accredited representatives of the Department of Agriculture or cognizant audit agency shall, until the expiration of three years after the final payment under this agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the displacing agency or any of its sub-contractors engaged in the performance of or involving any transactions related to this agreement.
- E. The displacing agency will make certain that comparable replacement dwellings will be available to displaced persons requiring such dwellings prior to requiring the displaced person to vacate the acquired real property.
- F. With the prior approval of the Service, the displacing agency may arrange with any person or organization, by contract or agreement, for services in providing for the moving of and the furnishing of replacement housing to displaced persons, but such arrangement shall not include the making of any payments to displaced persons by the other party.
- G. The terms and conditions of this agreement are applicable to all displacements occurring on and after January 2, 1971, as a result of acquisitions of landrights or of written notice from the displacing agency to vacate real property, provided such displacement was not delayed beyond January 2, 1971, for the convenience of the displaced person or for other reasons within the reasonable control of the displaced person.
- H. (When the displacing agency has powers of condemnation and will agree to use these powers, the following language shall be used for Paragraph H:

The displacing agency will use its powers of condemnation whenever the acquisition of any required landright cannot be obtained by donation, land exchange, or after reasonable and expeditious negotiations for purchase. Requests by the displacing agency for payment of the Service share of the moving and replacement housing costs incurred by the displacing agency will be prepared on a monthly basis on Form AD-628 to be provided by the Service. Each request for payment will be supported by a certificate from the displacing agency that all relocation assistance advisory services and relocation payments required by the regulations have been provided the displaced persons covered by the payment request.

When the displacing agency does not have powers of condemnation or has this power but will not agree to use it, the following language shall be used for Paragraph H:

Payment to the displacing agency for the Service share of the moving and replacement housing costs incurred by the displacing agency will not be made until all landrights which are required for the installation and operation of the works of improvement covered by this agreement have been acquired to the satisfaction of the Service. Requests by the displacing agency for payment of the Service share of such costs will be prepared in a format to be provided by the Service. After all such required landrights have been acquired, the displacing agency may bill the Service for the Service share of the relocation payments completed up to that time. Request for payment of the Service share of the cost of subsequent relocations will be prepared on a monthly basis.)

- I. Moving and replacement housing costs expended by the displacing agency shall be cost shared as follows:

The Service will reimburse the displacing agency for \_\_\_\_\_ percent of the amount paid by the displacing agency for the cost for each person, business, or farm operation that was displaced as a result of an acquisition of landrights or of a written notice to vacate.

- J. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.
- K. Each person who will be displaced from their dwelling, business, or farm operation and the estimated moving, searching and replacement housing costs for each is listed on Attachment No. 2 hereto.
1. Deletions from, additions to, and other revisions of this list may be made by amendment of this agreement.
  2. No commitment or expenditure for moving or replacement housing costs made by the displacing agency for a displaced person will be eligible for reimbursement by the Service unless the displaced person appears on the list and the final estimated amount shown for such person equals or exceeds the actual expenses paid by the displacing agency.

Of the total estimated costs shown on Attachment No. 2 the estimated Service share is \$ \_\_\_\_\_ and the estimated displacing agency share is \$ \_\_\_\_\_.

- L. The displacing agency will submit a performance report to the Service on a quarterly basis indicating the status of relocations for displacements listed on Attachment No. 2. The report shall include information briefly indicating:
- a. The number of relocations completed compared to the number planned for completing during the quarter.
  - b. Reasons for delay where goals were not met.
  - c. Other pertinent information such as determinations on increased costs.
- M. The displacing agency will comply with the attached Clean Air and Water Clause.
- N. The Service may terminate this agreement in whole or in part when the Service determines that the displacing agency has failed to comply with conditions of this agreement. The Service shall promptly notify the displacing agency in writing of the determination, the reasons for terminating, and the effective date. Payments or recoveries made by the Service under this termination shall be in accord with the legal rights and liabilities of the Service and the displacing agency.
- O. The Service may temporarily suspend this agreement if the Service determines that corrective action by the displacing agency is needed to meet agreement provisions. The Service also may suspend this agreement when it is evident that a termination is pending.

SCS DIRECTIVES SYSTEM SUBTITLE C

Soil Conservation Service Property Management Regulations  
(Amendment A-6, November 1977)

SCS-PMR-7163

PART 104I-71 RELOCATION ASSISTANCE

104I-71.903-4

\_\_\_\_\_ This action authorized at an official  
(Name of Displacing Agency) meeting of \_\_\_\_\_  
on this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_, at \_\_\_\_\_  
By: \_\_\_\_\_ State of \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_ Attest: \_\_\_\_\_  
(Name)  
Title: \_\_\_\_\_

U.S. Department of Agriculture  
Soil Conservation Service

By: \_\_\_\_\_  
(State Conservationist)  
Date: \_\_\_\_\_

Clean Air and Water Clause

(Applicable only if the agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Air Act (42 U.S.C. 1857c-8(c)(1)) or the Water Act (33 U.S.C. 1319(c)(d)) and is listed by EPA or the agreement is not otherwise exempt.)

A. The project sponsoring organization(s) signatory to this agreement agrees as follows:

(1) To comply with all the requirements of section 114 of the Air Act, as amended (42 U.S.C. 1857c-q) and section 308 of the Water Act, as amended (33 U.S.C. 1318, respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the signing of this agreement by the Service.

(2) That no portion of the work required by this agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this agreement was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air standards and clean water standards at the facilities in which the agreement is being performed.

(4) To insert the substance of the provisions of this clause in any nonexempt subagreement including this subparagraph (4).

B. The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Air Act, as amended (42 U.S.C. 1957 et seq.).

(2) The term "Water Act" means Water Act, as amended (33 U.S.C. 1251 et seq.).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 1857c-5(d)), and approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-b(c), (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an air or water pollution control agency in accordance with the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations, owned, leased, or supervised by a sponsor, to be utilized in the performance of an agreement or sub-agreement. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

Contract No. \_\_\_\_\_

Attachment No. 1 to Relocation Agreement

1. All forms prescribed by the Service for displacing agency and displaced person usage which contain data in support of relocation assistance, relocation assistance advisory services, and relocation payments made by the displacing agency.
2. The records detailed in paragraphs 3, 4, and 5 following to the extent that such data is not recorded in the forms discussed in paragraph 1 preceding.
3. General Relocation Records
  - a. Names and addresses of displaced persons and their complete original and new addresses and telephone numbers (if available after reasonable effort to obtain where displaced person moved without assistance).
  - b. Personal contacts made with each displaced person, including for each:
    - (1) Date and name of person giving notification of availability of relocation payments and relocation assistance advisory services;
    - (2) Dates and substance of subsequent followup contacts and by whom made;
    - (3) Whether the offer of assistance in locating or obtaining replacement housing was declined or accepted;
    - (4) Date on which the displaced person was notified to move and date he was required to move from the acquired property;
    - (5) Date acquired property was vacated and whether relocation was accomplished with or without the assistance of the displacing agency;
    - (6) Type of tenure before and after relocation.
  - c. For displacement from dwelling:
    - (1) Number in family;
    - (2) Type of property (single detached, multi-family, etc.);
    - (3) Value, or monthly rent;
    - (4) Number of rooms occupied, excluding bathrooms.
  - d. For displaced businesses:
    - (1) Type of business;
    - (2) Whether continued or terminated;
    - (3) If relocated, distance moved.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.903-6

- e. For displaced farm operation:
  - (1) Whether continued or terminated;
  - (2) If relocated, distance moved.
- 4. Moving Expense Records
  - a. The date the removal of personal property was accomplished;
  - b. The location or address from which and to which the personal property was moved;
  - c. If the personal property was stored temporarily, the location or address where the property was stored, the duration of such storage, and reason for the storage;
  - d. Itemized statement of the costs incurred supported by receipted bills or other evidence of expense;
  - e. Amount of reimbursement claimed, amount allowed and an explanation of any differences;
  - f. Data supporting any determination that a business cannot be relocated without a substantial loss of its existing partonage and that it is not part of a commercial enterprise having at least one other establishment not being acquired by the displacing agency;
  - g. When a fixed payment in lieu of an actual moving expense payment is made to a business or farm operation, data supporting the payment computation; and
  - h. When moving expense payments are made in accordance with a schedule, the data called for in 4c and 4d need not be maintained. Instead, records showing the basis on which payment was made shall be maintained.
- 5. Replacement Housing Payment Records
  - a. The date of the receipt of each application for such payments;
  - b. The date on which each payment was made or the application rejected including reasons for any rejection;
  - c. Supporting data explaining how the amount of the payment to the applicant was calculated;
  - d. A copy of the closing statement to support the purchase or down payment, and incidental expenses when replacement housing is purchased;
  - e. A copy of the data including computations to support any increased interest payment.

- f. The individual responsible for determining the amount of the replacement housing payment shall place in the records a signed and dated statement setting forth:
- (1) The amount of the replacement housing payment;
  - (2) That he has no direct or indirect present or contemplated personal interest in this transaction nor will derive any benefit from the replacement housing payment.
- g. A statement by the displacing agency that the displaced person has relocated into housing meeting the requirements of the regulations.

Attachment No. 2 to Relocation Agreement

Contract No. \_\_\_\_\_

Name of displaced person	Estimated Cost		Estimated Cost Share		
	<u>Moving</u>	<u>Replacement Dwelling</u>	<u>Total</u>	<u>Displacing Agency</u>	<u>SCS</u>
	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

Soil Conservation Service Property Management Regulations  
(Amendment A-3, May 1977)  
SCSPMR-7168

Part A - Displacements Anticipated Prior to July 1, 1972  
Part B - Displacements Anticipated on/or after July 1, 1972

SUBPART 104I-71.9 EXHIBITS

104I-71.903-8

§ 104I-71.904 Amendment to Relocation Agreement.

Amendment to Relocation Agreement

THIS AGREEMENT entered into and effective this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_\_, called the displacing agency, and the Soil Conservation Service, United States Department of Agriculture, called the Service, is for the purpose of amending the Relocation Agreement between said parties which was entered into on \_\_\_\_\_, 19\_\_\_\_, and is identified by contract number \_\_\_\_\_.

WHEREAS, the displacing agency does not have, and cannot obtain or arrange for obtaining, funds to permit it to pay to displaced persons in a timely manner the Service share of the eligible relocation costs incurred by displaced persons. Inability of the displacing agency to make such payments will delay expeditious completion of the project identified in the Relocation Agreement.

NOW THEREFORE, the Service agrees to advance to the displacing agency the estimated Service share of the costs incurred by displaced persons which are eligible for reimbursement to displaced persons by the displacing agency subject to the following conditions:

1. By the 15th day of each month the displacing agency and the Service will jointly forecast in writing eligible displacement costs to be incurred by displaced persons for which said persons will seek reimbursement from the displacing agency during the following month, and the estimated Service share thereof.
2. By the last day of the month in which the forecast is made, the Service will advance to the displacing agency the estimated Service share of eligible displacement costs to be incurred by displaced persons for which said persons will seek reimbursement from the displacing agency during the following month.
3. Any excess or deficiency in the funds advanced to the displacing agency by the Service as its share of relocation costs as compared to actual share of costs paid during the month by the displacing agency will, to the extent necessary, be adjusted when (a) the forecast for the succeeding month is made; or (b) the Service processes the displacing agency's monthly reimbursement voucher submitted in accordance with item H of the Relocation Agreement; or (c) as provided in provision number 4 following for deficiencies in the advance which the displacing agency cannot cover without further Service advance.
4. When the Service advance for a particular month proves to be inadequate to cover the Service share of the cost and the displacing agency cannot cover such deficiency with its own funds, an additional advance may be made by the Service upon its receipt and acceptance of an explanation in writing from the displacing agency of the need and request for an additional advance of funds for the month.
5. The displacing agency shall furnish the Service a monthly report showing (a) the undisbursed balance of advanced funds at the beginning of the month, (b) the amount of funds advanced by the Service during the month, (c) the amounts disbursed during the month from advanced funds and the purpose thereof, and (d) the remaining undisbursed balance of advanced funds on hand at the end of the month.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.904-2

6. At the conclusion of the need by the displacing agency of Service advances the Service will promptly pay to the displacing agency any balance due to the displacing agency, or the displacing agency will promptly refund to the Service any excess of advances over the actual Service share of the costs.
7. Service funds advanced to the displacing agency will be used by the displacing agency only for the purpose of paying the Service share of eligible costs incurred by displaced persons, and said payments shall be made only in compliance with the provisions of the Relocation Agreement.
8. The displacing agency may use funds advanced under this agreement for the purpose of making advance payments to a displaced person in hardship cases after obtaining the prior written approval of the Service. When such an advance payment appears desirable, the following procedures will be followed:
  - a. The displacing agency shall write to the Service:
    - (1) Identifying this amendment.
    - (2) Identifying the displaced person, business or farm operation involved in the hardship case.
    - (3) Describing the conditions which in the opinion of the displacing agency warrant a finding of hardship.
    - (4) Detailing the probable items of eligible expense and estimating the amount thereof to be incurred by and advanced to the displaced person, and the Service share thereof.
    - (5) Requesting Service approval to use funds advanced by the Service under this amendment to make the Service share of the advance.
  - b. Service approval or disapproval of the request will be made in writing by the state conservationist to the displacing agency. A disapproval shall include the reasons therefor. If the request is approved, the displacing agency agrees that:
    - (1) Service approval of the advance payment by the displacing agency to the displaced person does not constitute Service approval of the eligibility of the items for which cost is to be incurred by the displaced person or the amount thereof.
    - (2) The obligation of the Service for payment of its share of the eligible costs incurred by the displaced person is not binding until all requirements of the U.S. Department of Agriculture regulations and instructions issued by the Service implementing said regulations have been met.
    - (3) The Service share of the advance made by the displacing agency to the displaced person shall be made in the manner and within the limitations following:

Soil Conservation Service Property Management Regulations  
(Amendment A-3, May 1977)

SCSPMR-7170

SUBPART 104I-71.9 EXHIBITS

104I-71.904-3

- (a) For actual moving costs:
    - (i) In the form of a payment on behalf of the displaced person to the party to whom the displaced person is or will be indebted for actual allowable moving cost furnished.
    - (ii) By displacing agency check may be payable jointly to the displaced person and his creditor for actual allowable moving costs.
    - (iii) Contingent that the creditor provide the displacing agency a copy of a paid receipt detailing the services rendered and containing a statement signed by the displaced person that the services were provided to the displaced person.
  - (b) For fixed payment moving costs, not more than seven calendar days prior to the date on which the displaced person will vacate the acquired premises and in an amount not to exceed the scheduled moving expense allowance. (This excludes the dislocation payment of \$200.00.)
  - (c) For replacement housing differential at the time of closing of the rental or purchase arrangement and in accordance with procedures set forth above for actual moving costs.
  - (d) For searching expenses, not to exceed the estimated allowable travel, meals and lodging costs to be incurred.
9. No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this agreement; or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

This action authorized at an official meeting of this \_\_\_\_\_ on \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, State of \_\_\_\_\_.

Attest: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

(Name of Displacing Agency)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

U.S. DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

By: \_\_\_\_\_

Title: \_\_\_\_\_ State Conservationist

Date: \_\_\_\_\_

SUBPART 104I-71.9 EXHIBITS

104I-71.905-1

§ 104I-71.905 Suggested letter and brochure for  
potential displaced persons.

(Letterhead of Displacing Agency)

(Name and address of addressee)

Dear Mr. \_\_\_\_\_:

The \_\_\_\_\_ (Name of Displacing Agency) and other local agencies and organizations have agreed with the Soil Conservation Service of the U.S. Department of Agriculture to a plan for the carrying out of a local project known as the \_\_\_\_\_ (Name of the Project). This project has been authorized under \_\_\_\_\_ (Reference to Program).

The purpose of the project is \_\_\_\_\_ (State purpose of Project).

In the arrangement with the Soil Conservation Service the local agencies and organizations have agreed to acquire all interests in real property required for the purposes of the project. Such acquisitions and any relocations necessary in carrying out the project must be performed in compliance with the requirements of Public Law 91-646 and of the Soil Conservation Service.

If, as a result of our acquisition of interests in real property for this project, you are required to move personal property or are displaced from your dwelling, business, or farm operation, you may be entitled to certain assistance as provided by Public Law 91-646. Payments you receive, if any, for real property acquired for the project will not be increased or decreased by this assistance or any relocation payments for which you may become eligible. The assistance is discussed in a general way in the attached brochure. When it is known that you will be affected by the acquisitions, we will discuss with you your eligibility and extent of eligibility in greater detail. If in the meantime you desire more information, we will be happy to discuss your situation if you will contact us in person at \_\_\_\_\_ (Address) or by telephone \_\_\_\_\_ (Number) between the hours of \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m., Monday through Friday of any week, holidays excepted.

Very truly yours,

Name of Displacing agency  
Signature  
Title

INFORMATION BROCHURE CONCERNING  
PUBLIC LAW 91-646, 84 STAT. 1894  
THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY  
ACQUISITION POLICIES ACT OF 1970

ISSUED BY

THE \_\_\_\_\_  
(Name of Displacing Agency)

\_\_\_\_\_  
(Address of Displacing Agency)

## ASSISTANCE TO DISPLACED PERSONS

It is our express policy to administer this project so as to achieve to the greatest degree possible, fair and equitable treatment of all individuals required to be displaced and to help you in your relocation and associated problems should you desire such services.

Whenever the taking of property or a portion thereof will require displacements, we will make available to displaced persons measures, facilities or services such as:

1. Assistance in determining your needs for relocation assistance.
2. Making available current and continuing information on the availability, prices and rental rates of comparable sale and rental housing, and comparable commercial properties and farms.
3. Assuring that within a reasonable period of time prior to anyone having to move from the acquired dwelling, there will be available a decent, safe and sanitary replacement dwelling that is:
  - a. Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing;
  - b. Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of Title VIII of the Civil Rights Act of 1968;
  - c. In an area not generally less desirable than the acquired dwelling in regard to neighborhood conditions, including, but not limited to, municipal services and other environmental factors, and public, commercial and community facilities;
  - d. Reasonably accessible to your place of employment;
  - e. Adequate to accommodate your needs; and
  - f. Available on the market to you at rents or prices within your financial means.
4. Providing assistance to anyone displaced from his business or farm operation by the project and helping obtain and become established in a suitable replacement location.
5. Supplying information concerning housing programs, disaster loan programs, and other federal or state programs offering assistance.
6. Providing such personal counseling and other advisory services as you may desire in order to help you relocate with the least amount of hardship.
7. Assisting you in preparing your application for relocation payments for which you may be eligible.

PAYMENTS

The payments for which you may be eligible if your property is acquired and you have to move from your dwelling, business or farm to a new location are intended to provide relief from the economic problems attendant to your dislocation and assist you in obtaining adequate replacement housing.

The kinds of payments which are authorized to be considered are:

1. Moving and related expenses.
2. Supplemental housing payments.
3. Costs of conveying property.

MOVING AND RELATED EXPENSESDisplaced From Dwelling

If you are displaced from your dwelling, you may be eligible to be reimbursed for certain actual reasonable costs incurred to move your personal property or you may be eligible for a moving expense allowance.

If you elect to receive actual reasonable moving costs, the distance of the move for which you may be reimbursed is limited to 50 airline miles. Reimbursable items of expense may include: transportation of yourself, members of your family, and related personal property; packing, unpacking, crating and uncrating; advertising for packing and crating; storage; insurance premiums covering loss and damage while in storage or transit; removal, reinstallation and reestablishment of machinery, equipment and appliances, including reconnection of utilities; and property lost, stolen, or damaged (not caused by the fault or negligence of yourself, your agents or employees) in the process of moving, where insurance to cover such loss or damage is not available. Not reimbursable are such items as: additional living expenses; cost of moving structures, improvements, or other real property for which you retained ownership; improvements to the replacement site; interest on loans to cover moving expenses; loss of trained employees; personal injury; preparing application for reimbursement; modification of personal property to adapt it to the replacement site except where required by law.

If you are eligible for and elect to receive the moving expense allowance rather than actual reasonable moving costs, the allowable amount is determined from a schedule established by us, not to exceed \$300, plus a dislocation allowance of \$200.

Displaced From a Farm Operation

If you are displaced from a farm operation, you may be eligible to be reimbursed for certain actual reasonable costs incurred to move the personal property of the farm operation or you may be eligible for a fixed payment.

If you elect to be reimbursed for actual reasonable costs to move:

1. The distance of the move for which you may be reimbursed is limited to 50 airline miles.

2. Reimbursable and nonreimbursable items are the same as those described under Displaced From Dwellings except that loss of goodwill and loss of profits are additional items that are not allowable costs.
3. You may be eligible for actual direct losses resulting from actions such as the following:
  - a. When personal property used in connection with a farm operation is abandoned.
  - b. When an item of personal property used in connection with a farm operation is not moved but is sold and replaced with a comparable item at the new location.
  - c. When personal property used in a farm operation is of low value and high bulk, and the cost associated with its being moved is disproportionate to its value.
  - d. When a farm operation is discontinued and the personal property used in the farm operation is sold.
4. You may also be eligible for reimbursement of reasonable expenses in searching for a replacement farm location. The maximum allowable is \$500. Allowable are such items as: travel by common carrier or privately-owned vehicle; meals and lodging; time spent in searching; and real estate broker or agent assistance.

If you elect the fixed payment rather than actual reasonable costs described in the preceding paragraph, the amount of the payment will be based on the average net annual earnings of your farm operation. The amount payable under this election shall be not less than \$2,500, nor more than \$10,000.

#### Displaced From a Business

If you are displaced from a business, the conditions described under Displaced From a Farm Operation are equally applicable to a business with the following exception. You will not be allowed to elect the fixed payment unless (a) your business cannot be relocated without a substantial loss of its existing patronage and (b) the business is not a part of a commercial enterprise having at least one other establishment that is not being acquired which is engaged in the same or similar business.

Personal property of low value and high bulk mentioned under Displaced From a Farm Operation may include such things as junk yards, stockpiled sand, gravel, minerals, and metals.

#### Other Displacements

If you have personal property which must be moved from real property being acquired by us but you do not qualify as being displaced from a dwelling, farm operation or business, you may be eligible to be reimbursed for certain actual reasonable costs incurred to move your personal property. Eligible and ineligible items of cost will be the same as that described under Displaced From a Dwelling.

SUPPLEMENTAL HOUSING PAYMENT FOR CERTAIN HOMEOWNERS

If you are displaced from a dwelling which you owned and occupied for at least 180 days before we started negotiations to acquire your property, you may be eligible for a supplemental housing payment to assist in your purchase of a comparable replacement dwelling. The maximum supplemental payment is limited to \$15,000.

To determine the amount of this supplemental payment, you must consider the following factors and amounts:

1. The amount, if any, which when added to what you were paid for your dwelling will equal the reasonable cost of a comparable dwelling. Our determination of the value or cost of replacement homes in the area will determine whether you are entitled to this supplemental amount.
2. You may be eligible to have included an amount to cover the increased interest costs which you might be required to pay on the current market to finance your replacement house. You would be eligible to be considered for this interest payment only if you had a valid mortgage on the dwelling we bought and the mortgage had been in existence for not less than 180 days before we started negotiations to acquire your property. The payment, if any, would be calculated on and would be limited to the unexpired term of the existing mortgage on the property acquired from you. So, if you did not have an existing mortgage, you would not be eligible to have this interest payment included.
3. You may also be eligible for reimbursement for reasonable expenses incurred for evidence of title, recording fees and other closing costs incident to your purchase of a replacement dwelling. Prepaid expenses and attorney's fees for legal services are not included.

Should you elect to rent rather than purchase a replacement dwelling, you may be eligible for the rental supplement discussed in the next subsection.

SUPPLEMENTAL HOUSING PAYMENTS FOR TENANTS AND CERTAIN OTHER HOMEOWNERS

Homeowners who have owned their homes less than 180 days but more than 90 days and all tenants who have lawfully occupied their dwellings for not less than 90 days prior to our starting negotiations to acquire the property may be eligible to receive a supplemental housing payment to rent or make a down payment on the purchase of a replacement dwelling.

A rental payment would be for the amount in excess of the rent you were paying or would have paid which is necessary to enable you to rent a comparable dwelling for a period of not to exceed four years. The amount cannot exceed \$4,000.

A purchase payment would be for the amount needed to cover the down payment and closing costs. This supplemental payment cannot exceed \$4,000. Any amount above \$2,000 must be equally matched by you.

COSTS OF CONVEYING PROPERTY TO THE ACQUIRING AGENCY

You may be eligible to be reimbursed for expenses you have incurred in conveying your title to us. The reimbursement permitted consists of three types of items.

1. Recording fees, transfer taxes and similar expenses.
2. Mortgage prepayment penalty costs. If you have a mortgage on the property we buy and there is a penalty charged by the mortgage holder for your paying it off in advance, you may be reimbursed for this expense.
3. Prepaid real estate property taxes. These are the taxes you may have paid covering the period after we take title or possession. This would apply only if you paid taxes in advance.

UNIFORM ACQUISITION POLICY

Relocation assistance payments are administrative payments and are separate and apart from the payment to you for your real property.

We will make every reasonable effort to acquire real property by negotiation.

We will give you or your representative an opportunity to accompany our appraiser during his inspection of your property.

Before starting negotiations, we will establish an amount as just compensation and we will promptly offer to pay that amount. This amount will at least equal our appraisal of the fair market value of your property. You will be provided with a written statement of, and a summary of the basis for, the amount we offer.

You will not be required to surrender possession of real property until you are paid the agreed purchase price. If it becomes necessary to condemn the property, you will not be required to surrender possession until we deposit with the court an amount not less than our appraised value or the amount of the award by the court.

In addition to the displacement notice you have received with this brochure, you will be given a written notice to vacate your property if and when appropriate.

The construction or development of this project will be scheduled to the greatest extent practicable to give you at least ninety days written notice to move.

If the acquisition of real property would leave you with an uneconomic remnant, we will offer to acquire the entire property.

MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE I - PERSONALTY

State	Occupant provides furniture										Occupant does not provide furniture	
	Number of rooms of furniture										First room	Each additional room
	1	2	3	4	5	6	7	8	9	10		
Alabama 1/.....	70	110	150	190	230	270	300	.....			(see end of table)	
Alaska.....	75	150	200	250	275	300	.....				15	15
Arizona.....	50	100	150	200	250	300	.....				25	15
Arkansas.....	70	110	150	190	230	270	300	.....			40	20
California.....	75	100	150	200	250	300	.....				25	15
Colorado.....	120	180	240	300	.....						30	20
Connecticut.....	50	90	140	170	230	260	300	.....			15	15
Delaware.....	60	100	140	180	220	260	300	.....			25	15
District of Columbia.....	100	135	170	210	250	290	300	.....			35	15
Florida.....	60	90	120	150	180	210	240	270	300	.....	20	10
Georgia.....	55	95	130	170	200	260	300	.....			30	10
Guam.....	48	85	120	168	205	240	300	.....			10	10
Hawaii.....	65	100	135	175	215	255	295	300	.....		45	30
Idaho.....	60	100	140	180	220	260	300	.....			20	10
Illinois.....	50	100	150	200	250	300	.....				25	15
Indiana.....	50	100	150	200	250	300	.....				25	15
Iowa.....	75	140	195	240	275	300	.....				30	12
Kansas.....	60	120	180	240	300	.....					30	10
Kentucky.....	50	90	130	170	210	250	290	300	.....		20	15
Louisiana.....	60	100	140	180	220	260	300	.....			40	15
Maine.....	50	90	125	150	175	200	225	250	275	300	15	10
Maryland.....	80	110	145	185	230	275	300	.....			20	10
Massachusetts.....	60	130	150	190	225	250	275	300	.....		25	15
Michigan.....	65	130	180	240	300	.....					50	10
Minnesota.....	75	125	175	225	250	275	300	.....			30	15
Mississippi.....	75	100	160	210	260	300	.....				40	20
Missouri.....	50	100	150	200	250	300	.....				25	10
Montana.....	55	85	115	145	175	200	225	250	275	300	25	15
Nebraska.....	50	100	150	200	250	300	.....				30	10
Nevada.....	50	100	150	200	250	300	.....				25	15
New Hampshire.....	50	100	125	150	175	200	225	250	275	300	25	15

SCSDS SUBTITLE C Soil Conservation Service Property Management Regulations (Amendment A-12, April 1979) SCSPMR-7179

§ 104I-71.906 Federal Highway Administration Moving Expenses Schedules. 104I-71.906-1

SUBPART 104I-71.9 EXHIBITS

MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE I - PERSONALTY

State	Occupant provides furniture										Occupant does not provide furniture		
	Number of rooms of furniture										First room	Each additional room	
	1	2	3	4	5	6	7	8	9	10			
New Jersey.....	80	140	195	245	300	.....	.....	.....	.....	.....	.....	25	15
New Mexico <u>2/</u> .....	105	155	205	255	300	.....	.....	.....	.....	.....	.....	(See end of table)	.....
New York.....	80	130	175	215	250	275	300	.....	.....	.....	.....	25	15
North Carolina.....	60	100	140	180	220	260	300	.....	.....	.....	.....	30	20
North Dakota.....	75	125	150	200	250	275	300	.....	.....	.....	.....	30	15
Ohio.....	50	100	150	200	250	300	.....	.....	.....	.....	.....	30	10
Oklahoma.....	50	85	120	155	190	225	260	300	.....	.....	.....	40	15
Oregon.....	60	120	180	240	300	.....	.....	.....	.....	.....	.....	20	20
Pennsylvania.....	60	105	150	195	240	285	300	.....	.....	.....	.....	20	20
Puerto Rico.....	75	105	135	165	195	225	250	275	300	.....	.....	25	25
Rhode Island.....	50	90	125	150	175	200	225	250	275	300	.....	25	10
South Carolina.....	95	125	165	205	235	250	270	300	.....	.....	.....	15	10
South Dakota.....	75	130	175	210	240	290	300	.....	.....	.....	.....	40	10
Tennessee.....	75	100	150	200	250	300	.....	.....	.....	.....	.....	25	15
Texas.....	50	85	120	150	185	220	260	300	.....	.....	.....	30	15
Utah.....	75	100	130	155	180	210	240	270	300	.....	.....	25	15
Vermont.....	50	90	125	150	175	200	225	250	275	300	.....	25	10
Virginia.....	60	80	120	160	200	240	280	300	.....	.....	.....	30	10
Virgin Islands.....	105	150	195	240	275	300	.....	.....	.....	.....	.....	35	35
Washington <u>3/</u> .....	70	120	150	180	210	240	270	300	.....	.....	.....	20	10
West Virginia <u>4/</u> .....	60	100	140	180	220	260	300	.....	.....	.....	.....	25	10
Wisconsin.....	60	120	170	220	260	300	.....	.....	.....	.....	.....	30	15
Wyoming.....	50	85	120	150	185	225	265	300	.....	.....	.....	30	15

1/ Furnished units including sleeping rooms. Occupant does not own furniture. First Room \$25, 2 Rooms \$40, 3 Rooms \$60, 4 Rooms \$75, 5 Rooms \$95, Each Additional Room \$15

2/ Furnished Units including sleeping rooms. Occupant does not own furniture. First Room \$45, 2 Rooms \$86, 3 Rooms \$107, 4 Rooms \$128, 5 Rooms \$149, 6 Rooms \$170, 7 Rooms \$191, 8 Rooms \$212, 9 Rooms \$233, 10 Rooms \$254 to a maximum of \$300

3/ For mobile homes (whether or not occupant provides furniture):  

First room	Each additional room
\$50	\$25

4/ Where occupant does not provide furniture, allowance for 2 rooms is \$40.

MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Alabama.....			0 (0)	200 (18.6)	.....	.....	140
			200 (18.6)	400 (37.2)	.....	.....	190
			400 (37.2)	600 (55.8)	.....	.....	240
			600 (55.8)	800 (74.4)	.....	.....	280
			800 (74.4)	.....	.....	.....	300
Alaska.....	All trailers.....		.....	.....	.....	.....	300
Arizona.....			0 (0)	300 (27.9)	.....	.....	150
			300 (27.9)	400 (37.2)	.....	.....	200
			400 (37.2)	500 (46.5)	.....	.....	250
			500 (46.5)	.....	.....	.....	300
Arkansas.....			.....	.....	0 (0)	12 (3.7)	200
			.....	.....	12 (3.7)	14 (4.3)	250
			.....	.....	14 (4.3)	.....	300
California <u>1/</u> .....			.....	.....	0 (0)	8 (2.4)	(see 1-end of table)
			.....	.....	8 (2.4)	.....	(see 2-end of table)
Colorado <u>2/</u> .....			.....	.....	.....	.....	100
Connecticut <u>3/</u> .....			.....	.....	0 (0)	8.5 (2.6)	150
			.....	.....	8.5 (2.6)	10.5 (3.2)	200
			.....	.....	10.5 (3.2)	12.5 (3.8)	250
			.....	.....	12.5 (3.8)	.....	100
Delaware.....			0 (0)	400 (37.2)	.....	.....	150
			400 (37.2)	600 (55.8)	.....	.....	200
			600 (55.8)	800 (74.4)	.....	.....	250
			800 (74.4)	1,000 (93)	.....	.....	300
			1,000 (93)	.....	.....	.....	.....

See footnotes at end of table.

SCSDS SUBTITLE C Soil Conservation Service Property Management Regulations (Amendment A-12, April 1979) SCSPMR-7181

SUBPART 104I-71.9 EXHIBITS

104I-71.906-3

SCSPMR-7182

Soil Conservation Service Property Management Regulations  
(Amendment A-12, April 1979) SCSDS SUBTITLE CMOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Florida.....	0	(0)	200	(18.6)	.....	.....	100
	200	(18.6)	400	(37.2)	.....	.....	150
	400	(37.2)	600	(55.8)	.....	.....	200
	600	(55.8)	850	(79.1)	.....	.....	250
	850	(79.1)	.....	.....	.....	.....	300
Georgia.....	0	(0)	400	(37.2)	.....	.....	95
	400	(37.2)	500	(46.5)	.....	.....	125
	500	(46.5)	600	(55.8)	.....	.....	185
	600	(55.8)	850	(79.1)	.....	.....	245
	850	(79.1)	.....	.....	.....	.....	300
Guam.....	0	(0)	300	(27.9)	.....	.....	130
	300	(27.9)	400	(37.2)	.....	.....	180
	400	(37.2)	500	(46.5)	.....	.....	210
	500	(46.5)	600	(55.8)	.....	.....	240
	600	(55.8)	700	(65.1)	.....	.....	270
	700	(65.1)	.....	.....	.....	.....	300
Hawaii.....	0	(0)	300	(27.9)	.....	.....	130
	300	(27.9)	400	(37.2)	.....	.....	180
	400	(37.2)	500	(46.5)	.....	.....	210
	500	(46.5)	600	(55.8)	.....	.....	240
	600	(55.8)	700	(65.1)	.....	.....	270
	700	(65.1)	.....	.....	.....	.....	300
Idaho.....	0	(0)	200	(18.6)	.....	.....	100
	200	(18.6)	400	(37.2)	.....	.....	150
	400	(37.2)	600	(55.8)	.....	.....	200
	600	(55.8)	800	(74.4)	.....	.....	250
	800	(74.4)	.....	.....	.....	.....	300

See footnotes at end of table.

PART 104I-71 RELOCATION ASSISTANCE

140I-71.906-4

SCSDS SUBTITLE C Soil Conservation Service Property Management Regulations  
 (Amendment A-12, April 1979) SCSPMR-7183

MOVING EXPENSE SCHEDULES  
 Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars	
	More than	But not more than	More than	But not more than	More than	But not more than		
Illinois...	0 (0)	24 (38.6)	.....	.....	0 (0)	8.5 (2.6)	100	
			.....	.....	8.5 (2.6)	10.5 (3.2)	150	
			.....	.....	10.5 (3.2)	12.5 (3.8)	200	
			.....	.....	12.5 (3.8)	.....	250	
	24 (38.6)	50 (80.5)	.....	.....	0 (0)	8.5 (2.6)	150	
			.....	.....	8.5 (2.6)	10.5 (3.2)	200	
			.....	.....	10.5 (3.2)	12.5 (3.8)	250	
			.....	.....	12.5 (3.8)	.....	300	
			.....	.....	.....	.....	.....	.....
			.....	.....	.....	.....	.....	.....
Indiana.....			.....	.....	0 (0)	8.5 (2.6)	150	
			.....	.....	8.5 (2.6)	10.5 (3.2)	185	
			.....	.....	10.5 (3.2)	12.5 (3.8)	250	
			.....	.....	12.5 (3.8)	.....	300	
			.....	.....	.....	.....	.....	.....
Iowa.....	0 (0)	25 (40.2)	.....	.....	0 (0)	8 (2.4)	130	
			.....	.....	8 (2.4)	10 (3)	150	
			.....	.....	10 (3)	12 (3.7)	180	
			.....	.....	12 (3.7)	.....	230	
			.....	.....	.....	.....	.....	.....
			.....	.....	.....	.....	.....	.....
			.....	.....	.....	.....	.....	.....
	25 (40.2)	50 (80.5)	.....	.....	0 (0)	8 (2.4)	140	
			.....	.....	8 (2.4)	10 (3)	170	
			.....	.....	10 (3)	12 (3.7)	200	
			.....	.....	12 (3.7)	.....	300	
			.....	.....	.....	.....	.....	.....
Kansas.....			.....	.....	0 (0)	200 (18.6)	80	
			.....	.....	200 (18.6)	400 (37.2)	160	
			.....	.....	400 (37.2)	600 (55.8)	240	
			.....	.....	600 (55.8)	.....	300	

See footnotes at end of table.

SUBPART 1041-71.9 EXHIBITS

1041-71.906-5

SCSPMR-7184

Soil Conservation Service Property Management Regulations  
(Amendment A-12, April 1979)  
SCSDS SUBTITLE CMOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Kentucky 4/					0 (0)	8 (2.4)	240
					8 (2.4)	10 (3)	285
					10 (3)	12 (3.7)	300
Louisiana					0 (0)	10 (3)	175
					10 (3)	12 (3.7)	200
					12 (3.7)	14 (4.3)	250
					14 (4.3)		300
Maine					0 (0)	8 (2.4)	150
					8 (2.4)	10 (3)	200
					10 (3)	12 (3.7)	250
					12 (3.7)		300
Maryland			0 (0)	200 (18.6)			110
			200 (18.6)	400 (37.2)			140
			400 (37.2)	600 (55.8)			165
			600 (55.8)	800 (74.4)			195
			800 (74.4)	1,000 (93)			220
			1,000 (93)	1,200 (111.6)			250
Massachusetts			1,200 (111.6)				300
			0 (0)	200 (18.6)			80
			200 (18.6)	400 (37.2)			140
			400 (37.2)	600 (55.8)			200
Michigan			600 (55.8)				300
					0 (0)	8 (2.4)	145
					8 (2.4)	10 (3)	230
					10 (3)	12 (3.7)	280
				12 (3.7)		300	

See footnotes at end of table.

PART 104I-71 RELOCATION ASSISTANCE

104I-71.906-6

MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars	
	More than	But not more than	More than	But not more than	More than	But not more than		
Minnesota	4/..	0 (0)	10 (16)	.....	0 (0)	10 (3)	125	
		.....	.....	.....	10 (3)	12 (3.7)	135	
		.....	.....	.....	12 (3.7)	14 (4.3)	150	
		.....	.....	.....	14 (4.3)	.....	175	
	10 (16)	25 (40.2)	.....	.....	.....	0 (0)	10 (3)	130
			.....	.....	.....	10 (3)	12 (3.7)	140
			.....	.....	.....	12 (3.7)	14 (4.3)	155
			.....	.....	.....	14 (4.3)	.....	185
	25 (40.2)	50 (80.5)	.....	.....	.....	0 (0)	10 (3)	140
			.....	.....	.....	10 (3)	12 (3.7)	150
			.....	.....	.....	12 (3.7)	14 (4.3)	175
			.....	.....	.....	14 (4.3)	.....	200
Mississippi	.....	.....	0 (0)	300 (27.9)	.....	.....	150	
	.....	.....	300 (27.9)	400 (37.2)	.....	.....	200	
	.....	.....	400 (37.2)	500 (46.5)	.....	.....	250	
	.....	.....	500 (46.5)	.....	.....	.....	300	
Missouri	.....	.....	0 (0)	200 (18.6)	.....	.....	100	
	.....	.....	200 (18.6)	400 (37.2)	.....	.....	150	
	.....	.....	400 (37.2)	600 (55.8)	.....	.....	200	
	.....	.....	600 (55.8)	800 (74.4)	.....	.....	250	
Montana	4/.....	.....	.....	.....	0 (0)	10 (3)	135	
		.....	.....	.....	10 (3)	12 (3.7)	150	
		.....	.....	.....	12 (3.7)	14 (4.3)	175	
		.....	.....	.....	14 (4.3)	.....	225	

See footnotes at end of table.

SCSDS SUBTITLE C Soil Conservation Service Property Management Regulations (Amendment A-12, April 1979) SCSPMR-7185

SUBPART 104I-71.9 EXHIBITS

104I-71.906-7

MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

Soil Conservation Service Property Management Regulations  
(Amendment A-12, April 1979)  
SCSDS SUBTITLE C

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
Nebraska.....			0 (0)	400 (37.2)			100
			400 (37.2)	600 (55.8)			150
			600 (55.8)	800 (74.4)			200
			800 (74.4)	1,000 (93)			250
		1,000 (93)				300	
Nevada.....			0 (0)	400 (37.2)			150
			400 (37.2)	500 (46.5)			200
			500 (46.5)	600 (55.8)			250
			600 (55.8)				300
New Hampshire .....			All Mobile Homes.....				300
New Jersey.....			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
		800 (74.4)				300	
New Mexico 4,5/.....	0 (0)	20 (32.2)			0 (0)	8.5 (2.6)	141
					8.5 (2.6)	10.5 (3.2)	181
					10.5 (3.2)	12.5 (3.8)	191
					12.5 (3.8)		231
		20 (32.2)	50 (80.5)			0 (0)	8.5 (2.6)
					8.5 (2.6)	10.5 (3.2)	191
					10.5 (3.2)	12.5 (3.7)	206
					12.5 (3.7)		246
New York.....			0 (0)	300 (27.9)			150
			300 (27.9)	500 (46.5)			200
			500 (46.5)	700 (65.1)			250
			700 (65.1)				300

See footnotes at end of table.

SCSDS SUBTITLE C

Soil Conservation Service Property Management Regulations  
(Amendment A-12, April 1979)  
SCSPMR-7187

MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
North Carolina	4,6/				0 (0)	10 (3)	150
					10 (3)	12 (3.7)	200
					12 (3.7)		300
North Dakota			0 (0)	200 (18.6)			125
			200 (18.6)	400 (37.2)			175
			400 (37.2)	600 (55.8)			225
			600 (55.8)	800 (74.4)			275
			800 (74.4)				300
Ohio	4/....0 (0) 10 (16)		0 (0)	320 (29.8)			130
			320 (29.8)	500 (46.5)			150
			500 (46.5)	840 (78.1)			170
			840 (78.1)	1,120 (104.2)			205
			1,120 (104.2)				250
	10 (16) 25 (40.2)		0 (0)	320 (29.8)			135
			320 (29.8)	500 (46.5)			155
			500 (46.5)	840 (78.1)			190
			840 (78.1)	1,120 (104.2)			220
			1,120 (104.2)				275
	25 (40.2) 50 (80.5)		0 (0)	320 (29.8)			145
			320 (29.8)	500 (46.5)			165
			500 (46.5)	840 (78.1)			200
			840 (78.1)	1,120 (104.2)			250
			1,120 (104.2)				300

See footnotes at end of table.

SUBPART 1041-71.9 EXHIBITS

1041-71.906-9

SCSPMR-7188

MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

Soil Conservation Service Property Management Regulations (Amendment A-12, April 1979)	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars
	State	More than But not more than	More than	But not more than	More than	But not more than	
Oklahoma.....					0 (0)	10 (3)	150
					10 (3)	12 (3.7)	175
					12 (3.7)	14 (4.3)	225
					14 (4.3)	.....	275
Oregon.....			0 (0)	200 (18.6)	.....	.....	100
			200 (18.6)	600 (55.8)	.....	.....	200
			600 (55.8)	.....	.....	.....	300
Pennsylvania.....			0 (0)	300 (27.9)	.....	.....	130
			300 (27.9)	500 (46.5)	.....	.....	225
			500 (46.5)	800 (74.4)	.....	.....	275
			800 (74.4)	.....	.....	.....	300
Rhode Island.....					0 (0)	8 (2.4)	225
					8 (2.4)	10 (3)	250
					10 (3)	12 (3.7)	275
					12 (3.7)	.....	300
South Carolina <u>4/</u> .....					0 (0)	10 (3)	140
					10 (3)	12 (3.7)	150
South Dakota.....					0 (0)	10 (3)	230
					10 (3)	12 (3.7)	270
					12 (3.7)	.....	300
Tennessee <u>4/</u> .....					0 (0)	10 (3)	100
					10 (3)	.....	150
Texas.....					0 (0)	8.5 (2.6)	165
					8.5 (2.6)	10.5 (3.2)	210
					10.5 (3.2)	12.5 (3.8)	255
					12.5 (3.8)	14.5 (4.4)	300

See footnotes at end of table.

PART 1041-71 RELOCATION ASSISTANCE

1041-71.906-10

SCSDS SUBTITLE C

MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

SCSDS SUBTITLE C Soil Conservation Service Property Management Regulations (Amendment A-12, April 1979) SCSPMR-7189

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars	
	More than	But not more than	More than	But not more than	More than	But not more than		
Utah 4/.....	0 (0)	10 (16)	.....	.....	0 (0)	8 (2.4)	140	
			.....	.....	8 (2.4)	10 (3)	145	
			.....	.....	10 (3)	12 (3.7)	165	
			.....	.....	12 (3.7)	.....	200	
		10 (0)	25 (40.2)	.....	.....	0 (0)	8 (2.4)	145
				.....	.....	8 (2.4)	10 (3)	155
				.....	.....	10 (3)	12 (3.7)	175
				.....	.....	12 (3.7)	.....	225
		25 (40.2)	50 (80.5)	.....	.....	0 (0)	8 (2.4)	150
				.....	.....	8 (2.4)	10 (3)	160
				.....	.....	10 (3)	12 (3.7)	190
				.....	.....	12 (3.7)	.....	250
Vermont 7/.....			.....	.....	0 (0)	8 (2.4)	155	
			.....	.....	8 (2.4)	10 (3)	185	
			.....	.....	10 (3)	12 (3.7)	215	
			.....	.....	12 (3.7)	.....	250	
Virginia.....			0 (0)	200 (18.6)	.....	.....	150	
			200 (18.6)	400 (37.2)	.....	.....	200	
			400 (37.2)	600 (55.8)	.....	.....	250	
			600 (55.8)	800 (74.4)	.....	.....	300	
			.....	.....	.....	.....	.....	
Washington 8/.....			0 (0)	200 (18.6)	.....	.....	100	
			200 (18.6)	400 (37.2)	.....	.....	150	
			400 (37.2)	600 (55.8)	.....	.....	200	
			600 (55.8)	800 (74.4)	.....	.....	250	
			800 (74.4)	.....	.....	.....	300	

See footnotes at end of table.

SUBPART 104I-71.9 EXHIBITS

104I-71.906-11



MOVING EXPENSE SCHEDULES  
Effective Jan. 1, 1979

TABLE II - MOBILE HOMES

State	Miles (Kilometres)		Area--Square Feet (Square Metres)		Width--Feet (Metres)		Allowance Dollars
	More than	But not more than	More than	But not more than	More than	But not more than	
6/Personalty Only							
	Width-----	Under 10 feet (3 m)	10 feet (3 m)	12 feet (3.7 m)	and over	Doubles	
		\$50	\$60	\$80		\$150	
7/\$50 for extras							
8/Personalty Only							
	First room.....	\$50					
	Each additional room....	\$25					

SCSDS SUBTITLE C  
 Soil Conservation Service Property Management Regulations  
 (Amendment A-12, April 1979)  
 SCSPMR-7191

SUBPART 104I-71.9 EXHIBITS

104I-71.906-13

SUBPART 104I-71.9 EXHIBITS

8 104I-71.907 Standard Forms (used by displaced person to request payment of relocation costs). 104I-71.907-1-1  
 8 104I-71.907-1-1 SF-261 Qualification Statement - Owner-Dwelling.

FORM APPROVED O.M.B. NO. 80-R0188

**QUALIFICATION STATEMENT FOR BENEFITS UNDER PUBLIC LAW 91-646 - OWNER-DWELLING**

Items 1, 2 and 3 to be completed by agency.

1. PROJECT

2. AGENCY NAME AND ADDRESS (Include ZIP code)

3. IDENTIFICATION NO.

NOTICE: Complete this form carefully and accurately. This information will be used in processing your application for relocation payments.

**4. DWELLING ACQUIRED**

4A. NAME OF OWNER	4B. PRESENT ADDRESS OF OWNER (Include ZIP code)	4C. DATE YOU MOVED INTO PRESENT DWELLING
(1)	(1)	(1)
(2)	(2)	(2)

4D. ADDRESS OF PROPERTY ACQUIRED (Include ZIP code)

5. AT THE TIME YOU RECEIVED THE WRITTEN OFFER TO PURCHASE THE DWELLING AT THE ADDRESS SHOWN IN ITEM 4D ABOVE, WAS THE DWELLING OWNED AND OCCUPIED AS YOUR PERMANENT RESIDENCE?

5A. DATE DWELLING FIRST  
OCCUPIED BY YOU

5B. DATE DWELLING  
VACATED BY YOU

YES (If "YES", complete item 5a)

NO (If "NO", complete items 5a and 5b)

5C. AT THE TIME OF ACQUISITION, WAS THE DWELLING AT THE ADDRESS SHOWN IN ITEM 4D ABOVE, OCCUPIED AS YOUR PERMANENT RESIDENCE?

YES (If "YES", complete item 5c.(1))

NO (If "NO", complete item 5c. (2))

5C. (1) DATE DWELLING FIRST OCCUPIED BY YOU

5C. (2) DATE DWELLING VACATED BY YOU

The above information is true, correct and complete to the best of my(our) knowledge and belief.

**6. OWNER(S)**

6A. SIGNATURE

6B. DATE

6C. SIGNATURE

6D. DATE

PROPOSED STANDARD FORM 261 (7-72)  
GENERAL SERVICES ADMINISTRATION

SUBPART 104I-71.9 EXHIBITS

8 104I-71.907-2 SF-262 Qualification Statement - Tenants and  
Certain Others.

104I-71.907-2-1  
FORM APPROVED O.M.B. NO. 80-R0188

**QUALIFICATION STATEMENT FOR BENEFITS UNDER PUBLIC LAW 91-646 - TENANTS AND CERTAIN OTHERS**

Items 1, 2 and 3 to be completed by agency.

1. PROJECT

2. AGENCY NAME AND ADDRESS (Include ZIP code)

3. IDENTIFICATION NO.

**NOTICE:** Complete this form carefully and accurately. This information will be used in processing your application for relocation payments.

4A. NAME	4B. PRESENT ADDRESS (Include ZIP code)	4C. DATE MOVED INTO PRESENT DWELLING
(1)	(1)	(1)
(2)	(2)	(2)

4D. ADDRESS FROM WHICH MOVED (Include ZIP code)

5. DID YOU OWN, OR RENT, THE DWELLING AT THE ADDRESS SHOWN IN ITEM 4D ABOVE?

OWN (If "OWN", complete Item 5A)

RENT (If "RENT", complete Item 5B)

5A. AT THE TIME YOU RECEIVED THE WRITTEN OFFER TO PURCHASE THE DWELLING AT THE ADDRESS SHOWN IN ITEM 4D ABOVE, WAS THE DWELLING OWNED AND OCCUPIED AS YOUR PERMANENT RESIDENCE?

	5A. (1) DATE DWELLING FIRST OCCUPIED BY YOU	5A. (2) DATE DWELLING VACATED BY YOU
<input type="checkbox"/> YES	▶ _____	▶ _____
<input type="checkbox"/> NO	▶ _____	▶ _____

5B. WAS THE DWELLING AT THE ADDRESS SHOWN IN ITEM 4D ABOVE, OCCUPIED AS YOUR PERMANENT RESIDENCE?

	5B. (1) DATE DWELLING FIRST OCCUPIED BY YOU	5B. (2) DATE DWELLING VACATED BY YOU
<input type="checkbox"/> YES	▶ _____	▶ _____
<input type="checkbox"/> NO	▶ _____	▶ _____

The above information is true, correct and complete to the best of my(our) knowledge and belief.

6. TENANT(S)

6A. SIGNATURE	6B. DATE	6C. SIGNATURE	6D. DATE

PROPOSED STANDARD FORM 262 (7-72)  
GENERAL SERVICES ADMINISTRATION

SUBPART 104I-71.9 EXHIBITS

8 104I-71,907-3 SF-263 Qualification Statement - Moving Expenses for Business or Farm Operation.

104I-71.907-3-1

FORM APPROVED O.M.B. NO. 80-R0188

QUALIFICATION STATEMENT FOR BENEFITS UNDER PUBLIC LAW 91-646  
MOVING EXPENSES FOR BUSINESS OR FARM OPERATION

Items 1, 2 and 3 to be completed by agency.

1. PROJECT

2. AGENCY NAME AND ADDRESS (Include ZIP code)

3. IDENTIFICATION NO.

NOTICE: Complete this form carefully and accurately. This information will be used in processing your application for relocation payments.

4. LOCATION AND OWNERSHIP OF BUSINESS OR FARM ACQUIRED

4A. BUSINESS

(1) NAME AND ADDRESS OF BUSINESS (Include ZIP code)

(2) NAME(S) OF OWNER(S)

(3) ADDRESS(ES) OF OWNER(S) (Include ZIP code(s))

4B. FARM

(1) ADDRESS OR LOCATION OF FARM

(2) NAME(S) OF OWNER(S)

(3) ADDRESS(ES) OF OWNER(S) (Include ZIP code(s))

5. AT THE TIME OF ACQUISITION WAS THERE A DWELLING OR LIVING QUARTERS AT THE ADDRESS OR LOCATION DESCRIBED IN ITEMS 4A OR 4B ABOVE, WHICH YOU OCCUPIED AS YOUR PERMANENT RESIDENCE? (If "YES", check Item 5A or 5B)

YES  NO

5A.  OWNER 5B.  TENANT

6. HAVE YOU RELOCATED YOUR BUSINESS OR FARM OPERATION?

YES (If "YES", complete Item 6A)  NO (If "NO", complete Item 6B)

6A. YOUR NEW ADDRESS (Include ZIP code)

6B. DO YOU PLAN TO? (Check one)

RELOCATE  
 DISCONTINUE

The above information is true, correct and complete to the best of my(our) knowledge and belief.

7. APPLICANT(S)

7A. SIGNATURE

7B. DATE

7C. SIGNATURE

7D. DATE

PROPOSED STANDARD FORM 263 (7-72)  
GENERAL SERVICES ADMINISTRATION

SUBPART 104I-71.9 EXHIBITS

B 104I-71.907-4 SF-264 Application - Moving Costs-Families and Individuals.

104I-71.907-4-1

FORM APPROVED O.M.B. NO. 80-R0188

APPLICATION FOR MOVING COSTS AND RELATED EXPENSES - FAMILIES AND INDIVIDUALS

Items 1, 2, 3 to be completed by agency

1. PROJECT

2. AGENCY NAME AND ADDRESS (Include ZIP code)

3. IDENTIFICATION NO.

INSTRUCTIONS:

Before completing this application you must determine whether or not you wish to receive payment for ACTUAL MOVING EXPENSES or a FIXED PAYMENT (including a dislocation allowance). You should consult with the agency relocation representative before making this decision. If the application is for a FIXED PAYMENT, complete all items except item 9, 10 and 12. If the application is for ACTUAL MOVING EXPENSES complete all items except item 8. If an item does not apply write NA in the space. See reverse for allowable and non-allowable expenses.

4. NAME(S) OF APPLICANT(S)

DWELLING UNIT:	ADDRESS (Include ZIP code) (a)	APARTMENT, FLOOR OR ROOM NO. (b)	NO. OF ROOMS OCCUPIED* (c)	WAS IT FURNISHED WITH YOUR OWN FURNITURE? (d)	DATE YOU MOVED INTO THIS DWELLING (e)
5. FROM WHICH YOU MOVED				<input type="checkbox"/> YES <input type="checkbox"/> NO	
6. TO WHICH YOU MOVED					

\* Excluding bathrooms, hallways and closets

7. TYPE OF PAYMENT CLAIMED  
(A)  FIXED PAYMENT (B)  ACTUAL EXPENSES

8. AMOUNT OF FIXED PAYMENT \$

9. MOVING AND RELATED EXPENSES - ACTUAL COST BASIS

9A. TYPE OF MOVE (1)  SELF (2)  COMMERCIAL

9B. MOVING COSTS (If commercial)\* ..... \$

9C. TRANSPORTATION COSTS - FAMILIES & INDIVIDUALS (If any)\* ..... \$

9D. STORAGE COSTS (Must be approved in advance by agency)..... \$

9E. OTHER (Explain) .....

9F. TOTAL (Sum of Items 9B through 9E) ..... \$

\* Must be itemized and supported by attached receipts or unpaid bills.

10. METHOD OF PAYMENT (check one)

10A.  I(We) have paid the moving expenses and/or moving expenses and storage expenses as evidenced by the attached itemized receipt(s) or bill(s) from the mover and/or storage company or other contractors, and I(we) therefore request reimbursement.

10B.  I(We) have not paid the moving expenses and/or moving expenses and storage expenses, and I(we) therefore request that the attached itemized moving and storage bill(s) be paid directly to the mover and/or storage company or other contractors, in accordance with arrangements made in advance, and with my(our) consent, between the agency and the mover and/or storage company.

10C.  I(We) hereby request and authorize that the moving and/or moving and storage expenses, to be incurred by me(us), be paid directly to the mover and/or storage company or other contractors, in accordance with the arrangements made at this time, and with my(our) consent, between the local agency and moving and/or storage companies and/or other contractors.

I(We) CERTIFY under penalties and provisions of U.S.C. Title 18, Sec. 1001, and any other applicable law, that this application and information submitted herewith have been examined by me(us) and are true, correct and complete. I(We) further certify that I(we) have not submitted any other application for, or received, reimbursement or compensation from any other source for any item of loss or expense paid pursuant to this application and that any bills or receipts submitted herewith accurately reflect moving services actually performed and/or storage costs actually incurred.

11. APPLICANT(S)

11A. SIGNATURE	11B. DATE	11C. SIGNATURE	11D. DATE
----------------	-----------	----------------	-----------

PENALTY FOR FALSE OR FRAUDULENT STATEMENT. U.S.C. Title 18, Sec. 1001, provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies . . . or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

PROPOSED STANDARD FORM 264 (7-72)  
GENERAL SERVICES ADMINISTRATION

PART 104I-71 RELOCATION ASSISTANCE

104I-71.907-4-2

12. STORAGE COSTS AND RELATED DATA			
DATE PROPERTY MOVED FROM:		12C. NAME AND ADDRESS OF STORAGE COMPANY (Include ZIP code)	12D. TELEPHONE NO.
12A. ACQUIRED DWELLING TO STORAGE	12B. STORAGE TO REPLACEMENT DWELLING		

STORAGE COSTS (Itemization for Item 9D)

MOVING AND RELATED EXPENSES

ALLOWABLE MOVING EXPENSES

1. Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the displacing agency determines that relocation beyond this 50-mile area is justified.
2. Packing and unpacking, crating and uncrating of personal property.
3. Storage of personal property for a period generally not to exceed twelve months when determined necessary by displacing agency.
4. Insurance premiums for loss to and damage of personal property.
5. Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees), in the process of moving, where insurance to cover such loss or damage is not available.

NONALLOWABLE MOVING EXPENSES

1. Additional expense incurred because of living in a new location.
2. Cost of moving structures or other improvements in which the displaced person reserved ownership.
3. Improvements to the replacement site, except when required by law.
4. Interest on loans to cover moving expenses.
5. Personal injury.
6. Cost of preparing the application for moving and related expenses.
7. Payment for search cost in connection with locating a replacement dwelling.

PROPOSED STANDARD FORM 264 (7-72) (BACK)  
GENERAL SERVICES ADMINISTRATION

SUBPART 104I-71.9 EXHIBITS

8 104I-71.907-5 SF-265 Application - Replacement Housing Payments-Tenants and Certain Others.

104I-71.907-5-1

FORM APPROVED O.M.B. NO. 80-R0188

**APPLICATION FOR REPLACEMENT HOUSING PAYMENT FOR TENANTS AND CERTAIN OTHERS**

Items 1, 2, and 3 to be completed by agency.

1. PROJECT

2. AGENCY NAME AND ADDRESS (Include ZIP code)

3. IDENTIFICATION NO.

INSTRUCTIONS: 1. Purchased dwelling - If you have purchased a dwelling unit, complete items 4 thru 8 on this application. Attach copies of Offer to Purchase and Closing statement.  
 2. Rental unit - If you have moved into a rental unit, complete items 4, 5, and 8. Attach Copy of Lease or rent receipts.  
 3. Homeowner temporarily displaced - If you are a homeowner temporarily displaced because of code enforcement or voluntary rehabilitation, complete items 4, 5 and 8. Attach Copy of Lease or rent receipts.

4. NAME(S) OF APPLICANT(S)

5A. DWELLING FROM WHICH YOU MOVED

5B. DWELLING TO WHICH YOU MOVED

(1) ADDRESS  
(Include ZIP code)

(2) MONTHLY RENTAL * .....	\$ _____	▶	\$ _____
(3) APT. FLOOR OR ROOM NO. (If applicable) .....	_____	▶	_____
(4) DATE MOVED IN .....	_____	▶	_____
(5) DATE MOVED OUT .....	_____	▶	_____
(6) TOTAL NUMBER OF ROOMS .....	_____	▶	_____
(7) NUMBER OF BEDROOMS .....	_____	▶	_____

\* Item 5A(2) not to be completed by homeowners.

Items 6A and 6B to be completed only by purchasers of replacement dwellings.

6A. DOWN PAYMENT

6B. DATE OF PURCHASE OF REPLACEMENT DWELLING

7. EXPENSES INCIDENTAL TO PURCHASE

(A) LEGAL COSTS .....	\$ _____	(H) CERTIFICATION FEE .....	\$ _____
(B) TITLE SEARCH FEE, POLICY OR ABSTRACT .....	_____	(I) CREDIT REPORT FEE .....	_____
(C) NOTARY FEE .....	_____	(J) ESCROW FEE .....	_____
(D) SURVEY COSTS .....	_____	(K) TRANSFER TAXES .....	_____
(E) RECORDING FEES .....	_____	(L) OTHER (Explain) .....	_____
(F) LENDER'S APPRAISAL FEE .....	_____		
(G) FHA APPLICATION FEE .....	_____	(M) TOTAL (Sum of Items 7A thru 7L) .....	\$ _____

I (We) under penalties and provisions of Title 18, United States Code, Sections 286, 287, 1001 and any other applicable law, that the information submitted herewith have been examined by me(us) and are true, correct and complete.

8. APPLICANT(S)

8A. SIGNATURE	8B. DATE	8C. SIGNATURE	8D. DATE
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PENALTY FOR FALSE OR FRAUDULENT STATEMENT. U.S.C. Title 18, 1001, provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies . . . or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

PROPOSED STANDARD FORM 265 (7-72)  
GENERAL SERVICES ADMINISTRATION

**APPLICATION FOR PAYMENT OF MOVING COSTS AND RELATED EXPENSES  
 BUSINESS AND FARM OPERATION**

Items 1, 2 and 3 to be completed by agency

1. PROJECT

2. AGENCY NAME AND ADDRESS (Include ZIP code)

3. IDENTIFICATION NO.

**INSTRUCTIONS:** Complete all applicable items on this page and, as appropriate, Schedules A, B, C and D. See reverse side of this form for "allowable" and "nonallowable" expenses.

4. NAME OF CONCERN

**4A. PERSON FILING CLAIM ON BEHALF OF CONCERN**

(1) NAME	(2) ADDRESS (Include ZIP code)	(3) TELEPHONE NO.
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5. TYPE OF BUSINESS (✓ one)  
 (A)  BUSINESS (B)  FARM OPERATION  
 (C)  NON-PROFIT ORGANIZATION

6. TYPE OF OWNERSHIP (✓ one)  
 (A)  SOLE PROPRIETORSHIP (B)  CORPORATION (C)  PARTNERSHIP (D)  NON-PROFIT ORGANIZATION

8. LOCATION OR ADDRESS (Include ZIP code)

8C. DATE OCCUPIED

		FROM	TO
8A. FROM WHICH YOU MOVED			
8B. TO WHICH YOU MOVED			

8D. PRESENT MAILING ADDRESS (Complete, if different from Item 8A or 8B) (Include ZIP code)

9A. DID CONCERN DISCONTINUE BUSINESS? YES  NO   
 9B. DOES CONCERN PLAN TO REESTABLISH? YES  NO   
 10. TYPE OF PAYMENT CLAIMED  
 (A)  ACTUAL EXPENSES (Complete all items except item 12.)  
 (B)  FIXED PAYMENT (Complete all items except item 11.)

**11. MOVING AND RELATED EXPENSES**

REIMBURSEMENT FOR ACTUAL EXPENSES	11A. MOVING (Attach completed Schedule A)	\$	
	11B. STORAGE (Must be approved on advance by displacing agency) (Attach completed Schedule A)		
	11C. ACTUAL DIRECT LOSSES OF PROPERTY (Attach completed Schedule B)		
	11D. REASONABLE SEARCH (Attach completed Schedule C)		
	11E. TOTAL (Sum of Items 11A through 11D)	\$	

12. FIXED PAYMENT \$ 13. TYPE OF CLAIM (Check one) INITIAL  SUPPLEMENTARY  FINAL

**14. METHOD OF PAYMENT - MOVING AND RELATED EXPENSES (Check one)**

(A)  I (We) have paid moving and related expenses, as evidenced by the attached itemized receipt(s) or paid bill(s) from the mover and/or other contractors, and I (we) therefore request reimbursement.  
 (B)  I (We) have not paid the moving and related expenses, and I (we) therefore request that the attached itemized bill(s) be paid directly to the mover and/or other contractors, in accordance with arrangements made in advance, and with my (our) consent, between the agency and the mover and/or other contractors.

I (We) CERTIFY under the penalties and provisions of U.S.C. Title 18, Sec. 1001, and any other applicable law, that this application and information submitted herewith have been examined by me (us) and are true, correct, and complete. I (We) further certify that I (we) (and, to the best of my (our) knowledge, the concern indicated in Item 4) have not submitted any other claim for, or received, reimbursement or compensation for any item of loss or expense in this application, that I (we) (and, to the best of my (our) knowledge, the concern indicated in Item 4) will not accept reimbursement or compensation from any other source for any loss or expense paid pursuant to this claim, and that any bills or receipts submitted herewith accurately reflect moving services actually performed and/or storage costs actually incurred.

13A. SIGNATURE OF OWNER - PARTNER OR OFFICER	13B. TITLE (If appropriate) (Type or print)	13C. DATE
(1)	(1)	(1)
(2)	(2)	(2)

**PENALTY FOR FALSE OR FRAUDULENT STATEMENT.** U.S.C. Title 18, 1001, provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies . . . or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

PART 104I-71 RELOCATION ASSISTANCE

104I-71.907-7-2

Attachment No. 8

A. ALLOWABLE MOVING EXPENSES

1. Packing, and unpacking, crating and uncrating of personal property.
2. Advertising for packing, crating, and transportation when the displacing agency determines that is necessary.
3. Storage of personal property for a period generally not to exceed twelve months when determined necessary by displacing agency.
4. Insurance premiums for loss to and damage of personal property.
5. Removal and reinstallation of machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing agency is released from any payment for the property.
6. Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees), in the process of moving, where insurance to cover such loss or damage is not available.

B. ALLOWABLE EXPENSES IN SEARCHING FOR REPLACEMENT  
BUSINESS OR FARM.

1. Actual travel costs.
2. Extra costs for meals and lodging.
3. Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed per hour.
4. Necessary broker, real estate or other professional fees to locate a replacement business or farm operation, subject to prior approval of displacing agency.

C. NONALLOWABLE MOVING EXPENSES

1. Additional expenses incurred because of living in a new location.
2. Cost of moving structures or other improvements in which the displaced person reserved ownership.
3. Improvements to the replacement site, except when required by law.
4. Interest on loans to cover moving expenses.
5. Loss of good-will.
6. Loss of profits.
7. Loss of trained employees.
8. Personal injury.
9. Cost of preparing the application for moving and related expenses.

PROPOSED STANDARD FORM 267 (7-72)  
GENERAL SERVICES ADMINISTRATION

<b>SCHEDULE A: MOVING AND RELATED EXPENSES, INCLUDING STORAGE BUSINESS AND FARM OPERATION</b>	<b>INSTRUCTIONS:</b> Complete this section if reimbursement is claimed for actual moving expenses for which reimbursement of compensation is not otherwise provided. Indicate costs of work performed by mover and/or other contractors. Attach receipt(s) or unpaid invoice(s) and/or other supporting documentation.	IDENTIFICATION NO.
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**SECTION I - MOVING EXPENSES SUPPORTING DATA**

WORK AND/OR SERVICE PERFORMED (a)	IDENTIFICATION OF MOVER AND/OR OTHER CONTRACTORS			AMOUNT CLAIMED (e)	For Agency Use Amount Approved
	(b) NAME	(c) ADDRESS (Include ZIP code)	(d) TELEPHONE NO.		
(1) MOVING				\$	\$
(2) OTHER <i>(Specify)</i>					
<b>Enter "Total Amount Claimed" on Line 11A of first page of this application.</b>				<b>▶ TOTAL</b>	\$

**SECTION II - STORAGE EXPENSES SUPPORTING DATA**

1. DESCRIPTION OF PROPERTY STORED (Attach storage company manifest or other listing of property stored)	2. NAME OF STORAGE COMPANY	
	2A. ADDRESS OF STORAGE COMPANY	2B. TELEPHONE NO.
	STORAGE PERIOD	MONTHS
	4. TOTAL PERIOD (If this is not the final claim, enter estimate)	3. DATE PROPERTY MOVED
	5. PERIOD COVERED BY THIS CLAIM	3A. TO STORAGE
	STORAGE	AMOUNT
	6. TOTAL EXPENSES ACTUALLY INCURRED*	3B. FROM STORAGE
	\$	\$
*Enter this amount on Line 11B of first page of this application.		

Soil Conservation Service Property Management Regulations  
(Amendment A-3, May 1977)  
SCSPMR-71104

SUBPART 104I-71.9 EXHIBITS

104I-71.907-7-3

<b>SCHEDULE B: STATEMENT OF ACTUAL DIRECT LOSSES OF PROPERTY BUSINESS AND FARM OPERATION</b>	Instructions List each item of property for which an actual direct loss occurred and for which reimbursement is not otherwise provided. Furnish the information indicated below and attach any appraisals, estimates, statements of value, or other evidence of estimated value or actual price received for property sold.	IDENTIFICATION NO.
NAME OF CONCERN		

DESCRIPTION OF PROPERTY <i>(List each item separately)</i>	JUSTIFICATION FOR AMOUNT CLAIMED <i>(Explain fully, referring to any attached statements)</i>	FAIR MARKET VALUE FOR CONTINUED USE AT PRESENT LOCATION <i>(c)</i>	NET PROCEEDS FROM SALE <i>(d)</i>	AMOUNT CLAIMED <i>(e)</i>	For Agency Use Amount Approved*
(a)	(b)	(c)	(d)	(e)	
		\$	\$	\$	\$
Enter "Total Amount Claimed" on Line 11C of first page of this application			<b>TOTAL</b>	\$	\$

\* This amount not to exceed the reasonable expenses that would have been required to relocate such property.

FORM APPROVED O.N.B. NO. 80-R0188

<b>SCHEDULE D: PAYMENT IN LIEU OF MOVING AND RELATED EXPENSE PAYMENTS - BUSINESS AND FARM OPERATION</b>	IDENTIFICATION NO.
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An eligible displaced business or farm operation may elect to apply for a fixed payment in lieu of all the payments described in Schedules A, B, and C, provided that in the case of a business, the agency determines that the business cannot be relocated without a substantial loss of existing patronage and that the business is not a part of a commercial enterprise having at least one other establishment not being acquired and engaged in a similar business.

1. NAME OF CONCERN	
1A. ADDRESS OF CONCERN (Include ZIP code)	1B. TELEPHONE NO.
2. NAME(S) USED ON INCOME TAX RETURN(S)	2A. EMPLOYER IDENTIFICATION NUMBER(S) SHOWN ON TAX RETURN(S)
2B. PRINCIPAL BUSINESS ACTIVITY REPORTED ON TAX RETURN(S)	

3. NAME AND ADDRESS OF OTHER ESTABLISHMENTS OPERATED BY OR AFFILIATED WITH THE BUSINESS <i>(If "None", state "NONE")</i>		
(A) NAME	(B) ADDRESS (Include ZIP code)	(C) TYPE OF BUSINESS OR ACTIVITY
(1)	(1)	(1)
(2)	(2)	(2)
(3)	(3)	(3)

4. TAX RETURNS FILED WITH DISTRICT DIRECTOR OF INTERNAL REVENUE IN:					
(A)	(B) CITY	(C) STATE	(D)	(E) CITY	(F) STATE
19			19		

5. LISTING OF ATTACHMENTS SUPPORTING THIS PAYMENT:

PROPOSED STANDARD FORM 267 (7-72)  
GENERAL SERVICES ADMINISTRATION

PART 104I-71 RELOCATION ASSISTANCE

104I-71.907-7-7

Attachment No. 8

The displaced business or farm operation must complete the appropriate following table and attach supporting documentary proof of the amount claimed. (Net income must be established for two years and that amount is divided by 2 to obtain average).

6. INDIVIDUAL OR SOLE PROPRIETOR (Relates to IRS Form 1040.)			REMARKS (Individual or Sole Proprietor)	RESERVED FOR AGENCY USE
	19	19		
(A) GROSS RECEIPTS, OR GROSS SALES, LESS RETURNS AND ALLOWANCES	\$	\$		
(B) GROSS PROFIT				
(C) NET PROFIT (or Loss)*				
(D) SALARIES AND WAGES PAID TO MEMBERS OF OWNER'S FAMILY WHO ARE MEMBERS OF OWNER'S HOUSEHOLD (List names below and amounts to each)				
(E) NET EARNINGS (Total of Lines 6(C) plus 6(D))	\$	\$		
7. CORPORATION (Relates to IRS Forms 1120 and 1120-S)			REMARKS	RESERVED FOR AGENCY USE
	19	19		
(A) GROSS RECEIPTS OR GROSS SALES, LESS RETURNS AND ALLOWANCES	\$	\$		
(B) GROSS PROFIT				
(C) NET PROFIT (or Loss)				
(D) SALARIES AND WAGES PAID TO MEMBERS OF PRINCIPAL STOCKHOLDER'S FAMILY, WHO ARE MEMBERS OF HIS HOUSEHOLD**				
(E) NET EARNINGS (Total of Lines 7(C) plus 7(D))	\$	\$		
8. PARTNERSHIP (Relates to IRS Form 1065)			REMARKS	RESERVED FOR AGENCY USE
	19	19		
(A) GROSS RECEIPTS OR GROSS SALES, LESS RETURNS AND ALLOWANCES	\$	\$		
(B) TOTAL INCOME				
(C) ORDINARY INCOME (or Loss)				
(D) COMPENSATION OF PRINCIPAL PARTNERS***				
(E) SALARIES AND WAGES PAID TO MEMBERS OF PRINCIPAL PARTNER'S FAMILY WHO ARE MEMBERS OF PRINCIPAL PARTNERS IMMEDIATE HOUSEHOLD				
(F) NET EARNINGS (Total of Lines 8(C) plus 8(D) plus 8(E))	\$	\$		

\* No deductions should be made for any compensation paid to owner.

\*\* Principal stockholder is one who owns 15% or more of the corporation.

\*\*\* A principal partner is one with a proprietary interest of 15% or more in the concern.

PROPOSED STANDARD FORM 267 (7-72)  
GENERAL SERVICES ADMINISTRATION

FORM APPROVED O.M.B. NO. 80-R0188

**SCHEDULE C: STATEMENT OF ACTUAL REASONABLE EXPENSE IN SEARCHING FOR A NEW LOCATION - BUSINESS AND FARM OPERATION**

INSTRUCTION - Furnish the information indicated below and attach receipts.

NAME OF CONCERN	IDENTIFICATION NO.
-----------------	--------------------

NOTE: Unless the agency determines that an additional amount is reasonable and necessary, reimbursement for search expense is limited to \$500.00.

1. TRANSPORTATION: NUMBER OF MILES \_\_\_\_\_ x RATE PER MILE\* \_\_\_\_\_ = \_\_\_\_\_ \$

\*(To be completed in advance by agency)

2. NUMBER OF MEALS: \_\_\_\_\_ x NUMBER OF DAYS \_\_\_\_\_ = \_\_\_\_\_

3. LODGING AT: \$ \_\_\_\_\_ PER NIGHT x NUMBER OF NIGHTS \_\_\_\_\_ = \_\_\_\_\_

4. SEARCHING TIME: NUMBER OF HOURS \_\_\_\_\_ x RATE PER HOUR\* \_\_\_\_\_ = \_\_\_\_\_

\*(Compensable at hourly rate of salary or earnings, but not to exceed \$10.00 per hour.)

5. OTHER (Specify and attach receipts)

6. TOTAL SEARCHING EXPENSES CLAIMED (Sum of Items 1 through 5) \$ \_\_\_\_\_

7. ITINERARY (Dates, places, mode of transportation, etc.)

PROPOSED STANDARD FORM 267 (7-72)  
GENERAL SERVICES ADMINISTRATION

§ 104I-71.607 Displaced from site of mobile home.

(a) When a mobile home used as a dwelling is deemed personal property and is moved from the acquired site, the displaced person, in requesting payment for the cost of moving the mobile home, may elect to receive either a fixed payment under the provisions of § 104I-71.801 or the following actual reasonable costs as determined by the displacing agency.

(1) Moving the mobile home to a replacement site but not to exceed the cost of moving to a site 50 airline miles from the acquired site.

(2) Detaching and reattaching fixtures and appurtenances, where applicable.

(3) Reasonable expenses for room and board incurred by the displaced person or family while moving the mobile home to the replacement site.

(b) If a mobile home is not used as a dwelling, only the actual reasonable costs as determined by the displacing agency and detailed in § 104I-71.701 may be claimed.

§ 104I-71.608 Other displacements.

A person who is required to move his personal property from acquired real property but does not qualify as displaced from a dwelling or as a displaced business or farm operation is eligible only for the actual expense payment described in § 104I-71.701. and/or § 104I-71.703.