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# EMERGENCY RULE

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## TITLE 7 – DEPARTMENT OF TRANSPORTATION Division 10 – Missouri Highways and Transportation Commission Chapter 4 – Uniform Relocation Assistance

### EMERGENCY AMENDMENT

**7 CSR 10-4.020 Relocation Assistance Program.** The Missouri Highways and Transportation Commission is amending section (1).

*PURPOSE:* This emergency amendment incorporates the Missouri Department of Transportation's (**MoDOT**) revised Right of Way (**ROW**) Manual into this rule, which specifies that any Missouri Highways and Transportation Commission (**Commission**) and MoDOT initiation of negotiations (**ION**) to acquire real property, on and after June 3, 2024, that result in eligibility for relocation assistance benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (**URARPA Act**) and the U.S. Department of Transportation-Federal Highway Administration (**FHWA**) June 3, 2024, final rule for property owners, tenants, and other displaced persons as a result of the proposed acquisition must entitle those displaced persons to the increased relocation assistance payment amounts approved by the FHWA June 3, 2024, final rule.

*EMERGENCY STATEMENT:* This emergency amendment adopts an updated MoDOT ROW Manual that informs persons and businesses displaced as a result of Commission and MoDOT acquisition of their real property of the increased relocation assistance benefit payment amounts to which such persons are entitled via the June 3, 2024, FHWA rule. The Commission and MoDOT find that this emergency amendment is necessary to preserve a compelling governmental interest that assures fairness to an estimated fourteen parties affected by this emergency rule, specifically persons (i.e., landowners, tenants, etc.) displaced from their residence, business, or farm due to the acquisition of real property for the construction, reconstruction, and maintenance of the state highway system authorized by the **Missouri Constitution** and state law. These fourteen displaced parties are entitled to the increased relocation assistance payments because ION occurred on and after June 3, 2024, and under the effective date of this emergency amendment. Also, it is anticipated that some of these property owners will rightfully choose to engage legal counsel to represent them in these acquisitions. This emergency rule would avoid potential unnecessary and expensive litigation of legal claims by these property owners seeking the increased relocation assistance payments. The emergency amendment addresses these immediate harms to displaced owners, tenants, and other person by ensuring such persons are able to receive the increased relocation assistance payments.

Another compelling interest for the emergency amendment is for the state of Missouri to retain its federal aid highway funds authorized for the relocation assistance program. If the Commission does not entitle persons to the increased relocation assistance benefit amounts directed under the June 3, 2024 final rule, then the State of Missouri may be found by FHWA to be in noncompliance with the URARPA Act. FHWA expects Missouri to pay the increased relocation assistance benefits authorized under the final rule for all ION on and after June 3, 2024. If the Commission and MoDOT do not follow the FHWA directive, then under the URARPA Act, specifically Title 42, United States Code Annotated, Section 4604(c), FHWA can find Missouri in non-compliance with the federal Uniform Relocation Assistance program laws. Such noncompliance authorizes FHWA to

withhold its approval of any federal financial assistance to the Commission and MoDOT for its Relocation Assistance program, and the state of Missouri would lose its federal aid highway funds. The emergency amendment addresses this immediate harm.

The emergency amendment is limited solely to incorporating the federal June 3, 2024, regulations that increased the relocation assistance payments for eligible, displaced persons in which the Commission and MoDOT has ION on and after June 3, 2024. MoDOT has determined there are fourteen such parcels that shall have ION during the effectiveness of the emergency amendment. Because ION either have already occurred, or will occur, during the effective period of this emergency amendment, but before a final, permanent amended rule will become effective, this emergency amendment is necessary.

The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the **Missouri and United States Constitutions**. The Commission and MoDOT believe this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed October 4, 2024, effective November 1, 2024, and expires April 29, 2025.

(1) This rule adopts the department's Engineering Policy Guide, Category 236–Right of Way, Article 8, *Relocation Assistance Program*, which is incorporated herein by reference and made a part of this rule as published by the Missouri Highways and Transportation Commission, Design Division, 105 West Capitol Avenue, Jefferson City, MO 65102, [September 25, 2018] **September 16, 2024** Edition. This rule does not incorporate any subsequent amendments or additions.

*AUTHORITY:* sections 226.150, 227.120, and 523.210, RSMo 2016; 42 U.S.C. Chapter 61; 23 CFR Part 710; and 49 CFR Part 24. Original rule filed March 4, 1983, effective June 15, 1983. For intervening history, please consult the **Code of State Regulations**. Emergency Rule filed Oct. 4, 2024, effective, Nov. 1, 2024, expires April 29, 2025. An emergency amendment and proposed amendment covering this same material will be published in the Nov. 15, 2024, issue of the **Missouri Register**.

*PUBLIC COST:* This emergency amendment will cost state agencies or political subdivisions eighty-six thousand five hundred fifty dollars (\$86,550) in the time the emergency is effective.

*PRIVATE COST:* This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

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## FISCAL NOTE PUBLIC COST

- I. Department Title: Title 7 – Department of Transportation  
Division Title: Division 10 – Missouri Highways and Transportation Commission  
Chapter Title: Chapter 4 – Uniform Relocation Assistance**

<b>Rule Number and Name:</b>	7 Code of State Regulation (CSR) 10-4.020 – Uniform Relocation Assistance
<b>Type of Rulemaking:</b>	Emergency Amended

## II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
<b>Department of Transportation</b>	<b>\$86,550.09 per year on average</b>

## III. WORKSHEET

The federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (**URARPA Act**), as amended by subsequent federal law, is found in Title 42, United States Code (**USC**), section 4601, *et. seq.* The URARPA Act creates minimum standards for federally funded programs and projects that require the acquisition of real property (real estate). These standards include instances when the acquisition results in the displacement of persons from their homes, businesses, or farms. Federally funded programs include projects under Title 23 of the USC and Titles 23 and 49 of the Code of Federal Regulations (**CFR**), including construction, reconstruction, rehabilitation, and maintenance projects performed on Missouri highways and bridges on the state highway system (**SHS**).

In the May 3, 2024, Federal Register, Volume 89, No. 87, the U.S. Department of Transportation-Federal Highway Administration (**FHWA**) published a Notice of Final Rulemaking that amended FHWA regulations to implement an amendment to the URARPA Act. These amended federal regulations are found in Title 49, CFR, Part 24, and became effective on June 3, 2024.

A June 3, 2024, FHWA Memorandum to state departments of transportation (**DOTs**) directed such departments on the implementation of the June 3, 2024, federal regulations. The Memorandum specifies that any Missouri Highways and Transportation Commission (**MHTC**) and Missouri Department of Transportation (**MoDOT**) initiation of negotiations (**ION**) to acquire right of way needed for SHS projects, on and after June 3, 2024, that result in eligibility for relocation assistance benefits under the URARPA Act and the June 3, 2024, final regulations for property owners, tenants, and other displaced persons as a result of the proposed acquisition must entitle those displaced persons to the increased relocation assistance payment amounts authorized in the final regulation. On July 10, 2024, MoDOT staff discovered the increased relocation payment amounts authorized by the June 3, 2024, federal regulation. These updated, increased payment amounts are below:

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Relocation Assistance Benefit Type	Federal Regulatory Citation	Prior Relocation Assistance Amount (Pre-6/3/24)	New Relocation Assistance Amount (Post-6/3/24)	Approximate Percentage Change Increase
Maximum Replacement Housing Payment	49 CFR 24.401 and 24.502	\$31,000	\$41,200	33%
Replacement Housing Benefits for Displaced Tenants	49 CFR 24.402 and 24.503	\$7,200	\$9,560	33%
Nonresidential Reestablishment	49 CFR 24.304	\$25,000	\$33,200	33%
Fixed Payment for Nonresidential Moves	49 CFR 24.305	\$40,000	\$53,200	33%
Site Search Sub-category for Moving Expenses	49 CFR 24.301	\$2,500	\$5,000	100%

MoDOT estimates the **average** relocation assistance payment to a displaced business / person under the proposed, amended permanent rulemaking will be approximately **33%** higher. While moving expense payments for relocation assistance increased 100%, these expenses are a very small part of the total relocation assistance payments MoDOT makes in any given year, so MoDOT is using the 33% rate for all payments.

The total amount of all relocation assistance payments the Commission and MoDOT have made under the Uniform Relocation Assistance Program over the last five years are as follows:

Date Range	All Relocation Costs
9/4/24 - 9/4/23	226,022
9/3/24 - 9/4/22	338,210
9/3/22 - 9/4/21	420,464
9/3/21 - 9/4/20	1,417,661
9/3/20 - 9/4/19	220,373
<b>Total</b>	<b>2,622,730</b>

The **average, annual** relocation costs the Commission and MoDOT have paid over the last five years was **\$524,546** ( $\$2,622,730 / 5 = \$524,546$ ).

The proposed, amended, permanent rulemaking proposes to implement only the June 3, 2024, increased relocation assistance payments made by the Commission and MoDOT. This will not affect any other public entity.

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## IV. ASSUMPTIONS

MoDOT assumes the Commission and Department will make relocation assistance payments under the Uniform Relocation Assistance Program as authorized under the emergency amended Title 7, CSR 10-4.020 in an amount equal to six months of the average, annual relocation assistance payments made in the five previous years (see Section III., second chart above). The average, **six-month** relocation cost incurred by the Commission and MoDOT would be \$262,273 ( $\$524,546$  (one year average relocation costs) / 2 = \$262,273).

MoDOT also assumes the average, annual relocation costs will increase **approximately 33%**, which is the approximate average increase in relocation assistance payments amounts authorized under the new, June 3, 2024, federal regulation (see Section III., first chart above).

As a result, the total, average, **six-month**, increased relocation assistance costs that MoDOT shall incur under this amended emergency rulemaking is **\$86,550.09** ( $\$262,273 \times 33\% = \$86,550.09$ )