

Q&A: Determining When a Dwelling is Decent, Safe and Sanitary

Question: I have been advised that my house will be bought by the State DOT for a Federally-funded highway improvement project, and that I will need to move. My agent explained that I may be eligible for replacement housing payments, but in order to claim my payment, the replacement home I purchase must be DS&S. What does DS&S mean? How does my agent help me to ensure that I purchase a DS&S home?

Answer: The term DS&S is an acronym used in the Federal Uniform Relocation Act (49 CFR 24) which stands for Decent, Safe and Sanitary, and generally is used to describe a dwelling that meets local housing and occupancy codes, or in the absence of local codes, the policies of the acquiring agency. However, any of the following standards which are not met by the local code shall apply unless waived for good cause by the Federal Agency funding the project. These DS&S requirements are described in 49 CFR 24, and before you purchase or rent your replacement home, your agent must determine that the home is DS&S under the applicable regulations. This is somewhat of a complicated process, and each homeowner and home will have specific needs and corresponding DS&S requirements.

Your agent will work with you closely on your needs, but in general, for a dwelling to be considered DS&S, 49 CFR Part 24.2(a)(8)(i-vii), states that it must:

1) Be structurally sound, weather tight and in good repair - 24.2(a)(8)(i)

The relocation agent will visually inspect the dwelling to determine its overall condition as well as look for obvious signs of structural issues such as:

- evidence of water leaks in the ceiling
- large cracks in the walls and doors that do not close properly indicating potential foundation issues
- windows open and close properly

Most relocation agents are not licensed structural engineers or home inspectors, and the purpose of the agent's DS&S inspection is to determine if you are eligible to make a claim for your relocation payment. The cost of having professional inspections completed prior to your purchase of the property can be reimbursed to you by the displacing agency.

Once the home inspection is completed, a report will be provided to you that lists all deficiencies found in the home. Keep in mind that not all deficiencies would preclude the home from meeting

DS&S standards. As a buyer, you can negotiate repairs in your contract, however if not accepted by the seller, the home could still be considered decent, safe and sanitary for purposes of claiming your replacement housing payment.

2) Contain a safe electrical wiring system adequate for lighting and other devices -24.2(a)(8)(ii)

Your relocation agent will check to ensure all electrical outlets have plate coverings, verify there is no exposed wiring, and check the electrical breaker box. They will test the outlets to ensure they are in working order. The agent's inspection cannot determine the type of wiring (i.e. aluminum or copper) in the dwelling.

3) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees), except in areas where local climatic conditions do not require such a system - 24.2(a)(8)(ii)

Your relocation agent will verify that there is an operable heating system in place. Forms of heating may include a central system, floor units, baseboard heating, radiators and space heaters. Exceptions to this requirement may exist in areas like Hawaii, where local housing codes may not require a home have a heating system. Although not regulatory, many agencies have adopted a policy requiring a dwelling to contain a cooling system, especially in areas subject to extreme heat. Your agent will need to check with the displacing agency to determine if such a requirement exists.

4) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person - 24.2(a)(8)(iv)

Local housing codes may have minimum square footage requirements per individual or a maximum number of persons per sleeping room. In the absence of a local code, the displacing agency must have a policy in place pertaining to the maximum number of occupants per bedroom. Additionally, if the local housing codes contain requirements for separate bedrooms for children of the opposite gender, they must be followed. In the absence of these, the agency must have a policy in place addressing this issue as well.

Your relocation agent will advise you on the number of bedrooms you must have in your replacement dwelling to meet this DS&S requirement. If you elect to purchase a home that does not meet the number of bedrooms requirement, you may not be eligible to receive a replacement housing payment.

5) Have a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and connected to appropriate water and sewage drainage system – 24.2(a)(8)(v)

Your relocation agent will verify that all bathroom fixtures are in good working order, including a toilet that flushes properly and is connected to a sewage system, and sinks and bathtub or shower that work properly and are connected to hot and cold running water. Your agent will also make sure there is either a window that opens to the exterior or a vent fan in the bathroom. The bathroom must also have some type of screening from the rest of the dwelling (e.g. a door or curtain) and must have some means of artificial lighting available.

6) In the case of a housekeeping dwelling (as opposed to a dormitory style dwelling), there must be a kitchen area that contains a fully useable sink, connected to potable hot and cold water and to a sewage draining system and adequate space and utility service connections for a stove and refrigerator – 24.2(a)(8)(v)

During the DS&S inspection, your relocation agent will verify that the kitchen sink is operational with hot and cold running water and is connected to a system that produces drinkable water. Your agent will also ensure that the sink is connected to a sewage system. If no appliances are present, the agent will make sure there are connections available for a refrigerator and stove.

7) Have unobstructed egress to safe, open space at ground level – 24.2(a)(8)(vi)

Most single family dwellings have a front entry door, at minimum. However, this regulation requires egress to open space at ground level, therefore, your agent will ensure that if there are steps outside to reach ground level, the steps are in good condition and have appropriate railings. In the case of an apartment, condominium, row house or brownstone, your agent will ensure that your unit has access to the outside and that stairwells and/or fire escapes are not blocked.

8) Be free of any barriers which would preclude reasonable ingress, egress or use of the dwelling for a displaced person with a disability – 24.2(a)(8)(vii)

The DS&S requirement to a barrier-free unit for persons with disabilities depends on the disability of the individual displacee. For example, a displacee's physical condition may require only the installation of hand rails and toilet lift seat in the bathroom. Another displacee may be confined to a wheel chair, and DS&S



standards would require modifications to the entire property to open hallways and door frames, lower cabinets in the kitchen and bathrooms, have a handicap accessible shower, have smooth surface flooring throughout the dwelling, have exterior ramps, etc. Modifications for hearing impaired could include the installation of a visual (strobe light) smoke detector.

When assisting displacees with disabilities, the relocation agent will verify that any modifications necessary to meet the DS&S requirements are properly installed prior to the displacee occupying the property. The agent will work with the displacee to ensure they understand the requirements prior to purchasing a new dwelling.

Additional Requirements

Many local housing and occupancy codes require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Even if local law does not mandate adherence, the FHWA strongly recommends that it be considered as a matter of public policy. Additionally, some agencies have adopted DS&S policies regarding radon gas testing and the presence of asbestos containing materials (ACM's). Please check with the displacing agency regarding additional, non-regulatory DS&S requirements.

The requirement to purchase and occupy decent, safe and sanitary replacement housing is a protection provided to the displacee under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Your relocation agent will fully inform you of these minimum requirements and what you must do in order to claim your relocation payment.

We hope this helps you better understand the term DS&S. As this is an important issue with many requirements, there will be more to come on this topic.