

mail at henry.maurry@gsa.gov. Please cite FTR Amendment 2010-03; FTR case 2010-304.

SUPPLEMENTARY INFORMATION:

A. Background

On October 19, 1998, the President signed into law the Travel and Transportation Reform Act of 1998 (Pub. L. 105-264). Subsection 5(b) of Public Law 105-264, codified at 5 U.S.C. 5739, permits the Administrator of General Services to authorize Federal agencies to test new and innovative methods of reimbursing relocation expenses without seeking authorizing legislation or a waiver of regulations. This statutory provision is implemented in part 300-80 the Federal Travel Regulation (FTR) (41 CFR part 300-80), "Relocation Expenses Test Programs." Public Law 109-325 extended the test program authority through October 19, 2009. Public Law 111-112, enacted on November 30, 2009, extended the test program authority indefinitely.

B. Changes to the Current FTR

This final rule:

- Revises section 300-80.4 to update the maximum number of test programs that may be simultaneously running from 10 to 12;
- Revises section 300-80.6 to clarify test programs are limited to making payments in lieu of the relocation reimbursements contained in 5 U.S.C. chapter 57, subchapter II;
- Revises section 300-80.7 to update the duration of test programs and possible extensions from 24 months to four years;
- Redesignates current section 300-80.8 as section 300-80.9 and removes current section 300-80.9 because it is no longer valid;
- Adds new section 300-80.8 to add instructions for agencies wishing to apply for a test program extension; and
- Revises newly designated section 300-80.9 to clarify the reporting requirements for agencies conducting test programs.

C. Executive Order 12866

This regulation is excepted from the definition of "regulation" or "rule" under Section 3(d)(3) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993 and, therefore, was not subject to review under Section 6(b) of that Executive Order.

D. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory

Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revisions are not considered substantive. This final rule is also exempt from the Regulatory Flexibility Act per 5 U.S.C. 553 (a)(2) because it applies to agency management. However, this final rule is being published to provide transparency in the promulgation of federal policies.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the Federal Travel Regulation do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 300-80

Government employees, Reporting and recordkeeping requirements, Travel and transportation expenses.

Dated: July 16, 2010.

Martha Johnson,

Administrator of General Services.

- For the reasons set forth in the preamble, under 5 U.S.C. 5701-5739, GSA amends 41 CFR part 300-80 as set forth below:

PART 300-80—RELOCATION EXPENSES TEST PROGRAMS

- 1. The authority citation for 41 CFR part 300-80 continues to read as follows:

Authority: 5 U.S.C. 5707, 5738, and 5739.

§ 300-80.4 [Amended]

- 2. Amend § 300-80.4 by removing "10" and adding "12" in its place.

§ 300-80.6 [Amended]

- 3. Amend § 300.80-6 by—
 - a. Removing the word "None."; and
 - b. Removing "Chapter 302 of this title." and adding "5 U.S.C. chapter 57, subchapter II." in its place.
- 4. Revise § 300-80.7 to read as follows:

§ 300-80.7 How long is the duration of test programs?

The duration of a test program is up to four years from the date of authorization unless terminated prior to that time by the Administrator of General Services. The agency

conducting a test program may also terminate the test program at any time by providing written notice of the termination to the Administrator of General Services. The Administrator of General Services may grant test program extensions of up to an additional four years (see § 300-80.8).

§ 300-80.9 [Removed]

- 5. Remove § 300-80.9.

§ 300-80.8 [Redesignated as § 300-80.9]

- 6. Redesignate § 300-80.8 as § 300-80.9.
- 7. Add a new § 300-80.8 to read as follows:

§ 300-80.8 What must we do to apply for a test program extension?

The head of the agency or designee must submit a request to extend the test program to the Administrator of General Services (Attention: MTT), 1800 F Street, NW., Washington, DC 20405, not later than 120 days prior to the expiration of the test period. The request for extension must contain the test program results to that date and clearly enumerate the benefits, qualitatively or quantitatively or both, of granting a test program extension and must specify the duration of time for which an extension is requested.

- 8. Amend newly redesignated § 300-80.9 by—
 - a. Removing the introductory text;
 - b. Removing in paragraph (a), "an approved test program" and adding "any test program approved or extended" in its place; and
 - c. Adding new paragraph (c) to read as follows:

§ 300-80.9 What reports are required for a test program?

* * * * *

(c) All reports must include quantitative or qualitative assessments, or both, clearly evaluating the results of the test program and enumerating benefits and costs.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3000

Minerals Management: General

CFR Correction

In Title 43 of the Code of Federal Regulations, Part 1000 to End, revised as of October 1, 2009, on page 331, in

§ 3000.12, move paragraph (b) to below the table on page 332.

[FR Doc. 2010-24034 Filed 9-23-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1503

[Docket No. TSA-2009-0013]

RIN 1652-AA62

Revision of Enforcement Procedures

AGENCY: Transportation Security Administration, DHS.

ACTION: Final rule.

SUMMARY: The Transportation Security Administration (TSA) issues this final rule regarding TSA's investigative and enforcement procedures. TSA makes several minor changes to the final rule TSA issued on July 21, 2009. TSA extends the time for parties to reply to a petition for reconsideration or modification of a final decision and order of the TSA decision maker on appeal from 10 days after service to 30 days after service. Similarly, TSA extends the time for parties to reply to a motion from 10 to 30 days after service. Finally, TSA corrects an incorrect section reference.

DATES: Effective September 24, 2010.

FOR FURTHER INFORMATION CONTACT: Emily Su, Office of Chief Counsel, TSA-2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598-6002; telephone (571) 227-2305; facsimile (571) 227-1380; e-mail emily.su@dhs.gov.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

- (1) Searching the electronic Federal Docket Management System (FDMS) Web page at <http://www.regulations.gov>;
- (2) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>; or
- (3) Visiting TSA's Security Regulations Web page at <http://www.tsa.gov> and accessing the link for "Research Center" at the top of the page.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at http://www.sba.gov/advo/laws/law_lib.html.

Good Cause for Immediate Effective Date

This rule will be effective upon publication in the **Federal Register**. The Administrative Procedure Act, 5 U.S.C. 553, allows an agency, upon finding good cause, to make a rule effective immediately. There is good cause for making this final rule effective immediately. A final rule, published on July 21, 2009, is already in effect. 74 FR 36030. There is no need to provide advance notice that this final rule will become effective because this final rule is substantively the same as the July 21, 2009, final rule; the only changes in this final rule expand the period of time in which a party may respond to motions and final decision from 10 to 30 days.

Summary of the Rulemaking

On July 21, 2009, TSA published a final rule in the **Federal Register** (74 FR 36030) reorganizing and amending its Investigative and Enforcement Procedures. When TSA published the rule, TSA invited public comments on the rule until September 21, 2009. TSA received one letter to the public docket that raised a number of comments. This final rule responds to the comments and makes one minor procedural change and corrects a section reference, discussed below.

Response to Comments

Informal Conferences: The commenter stated that permitting an Informal Conference with an agency attorney or another agency official, as § 1503.421 provides, is beneficial for expedited resolution of cases. However, the commenter cautioned that agency personnel authorized to conduct such informal conferences must understand the TSA regulations and their intent and expressed the view that sometimes they do not.

TSA trains its attorneys and other agency officials so that they are well versed in any regulations at issue in an informal conference. TSA equips its attorneys and agency officials with

proper knowledge and skills to address any relevant concerns at informal conference.

Enforcement of "TSA Requirements": Another comment recommended that TSA amend the regulation to make it clear that individuals may only be charged with violations of regulations or agency orders as to which "proper notice has been given pursuant to the Administrative Procedure Act." The commenter stated that, if TSA seeks to hold individuals responsible through the enforcement process for violating non-regulatory "TSA requirements" such as agency orders, Subpart G should be amended to make clear that § 1503.607 does not preclude the Administrative Law Judge (ALJ) from making a full factual record as to whether the "TSA requirement" at issue was properly applicable to the individual charged, including whether the individual charged received legally sufficient actual or constructive notice of the binding nature of the TSA requirement.

TSA agrees that persons must have notice of a requirement before TSA can enforce it. In the case of violation of a statutory provision, the provision's inclusion in the public laws of the United States establishes notice. In the case of a regulation published in the **Federal Register**, filing the document with the Office of the Federal Register establishes notice. In the case of another enforceable requirement, such as an agency order, the person charged must have had adequate notice of the requirement; an ALJ proceeding could include resolution of this issue.

Warning Notices, Letters of Correction: Another comment focused on language in § 1503.301 providing that, if TSA determines that an alleged violation does not require assessment of a civil penalty, an appropriate official may take administrative action, such as warning notices and letters of correction, in disposition of the case. The rule provides: "The issuance of a Warning Notice or Letter of Correction is not subject to appeal under this part." The commenter expressed the following objections to the absence of an appeal process for Warning Notices:

1. TSA has made mistakes in interpreting its rules, resulting in the incorrect adjudication of matters under investigation, leading to TSA issuing Warning Notices to innocent parties.

2. Improperly issued Warning Notices can result in future negative consequences, such as increased civil penalties, if the recipient of the Warning Notice is the subject of future enforcement actions. The commenter referenced the language of Subpart E—