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GENERAL SERVICES ADMINISTRATION

41 CFR Part 303-70

[FTR Amendment 2011-07; FTR Case 2011-308; Docket Number 2011-0022, Sequence 1]

RIN 3090-AJ21

Federal Travel Regulation (FTR); Payment of Expenses Connected with the Death of Certain Employees

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Interim rule with request for comments.

SUMMARY: GSA is amending the Federal Travel Regulation (FTR) to establish policy for the transportation of the immediate family, household goods, personal effects, and one privately owned vehicle of a covered employee whose death occurred as a result of personal injury sustained while in the performance of the employee's duty as defined by the agency.

DATES: Effective date: This interim rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability date: This interim rule applies to travel relating to employees who died on and after June 9, 2010.

Comment due date: Interested parties should submit written comments to the Regulatory Secretariat on or before **[insert date 60 days after FEDERAL REGISTER publication date]** to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FTR Amendment 2011-07, FTR case 2011-308 by any of the following methods:

- Federal eRulemaking Portals: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting “FTR Case 2011-308” under the heading “Enter Keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “FTR Case 2011-308.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FTR Case 2011-308” on your attached document.
- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street, NE, 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FTR Amendment 2011-07, FTR case 2011-308 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Rick Miller, Office of Governmentwide Policy, Travel Management Policy, at (202) 501-3822 or e-mail at rodney.miller@gsa.gov, for clarification of content. For information pertaining to status or publication schedules contact the Regulatory Secretariat (MVCB) at (202) 501-4755. Please cite FTR Amendment 2011-07, FTR case 2011-308.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to 5 U.S.C. 5707, the Administrator of General Services is authorized to prescribe necessary regulations to implement laws regarding Federal employees who travel in the performance of official business away from their official stations. Similarly, 5 U.S.C. 5738 mandates that the Administrator of General Services prescribe regulations relating to official relocation. In addition, the Presidential Memorandum “Delegation Under Section 2(a) of the Special Agent Samuel Hicks Families of Fallen Heroes Act”, dated September 12, 2011, published in the Federal Register on September 15, 2011 (76 FR 57621), delegates to the Administrator of General Services the authority to issue regulations under Public Law 111-178, the Special Agent Samuel Hicks Families of Fallen Heroes Act, codified at 5 U.S.C. 5724d, relating to the payment of certain expenses when a covered employee dies as a result of injuries sustained in the performance of his or her official duties. The overall implementing authority is the Federal Travel Regulation (FTR), codified in Title 41 of the

Code of Federal Regulations, Chapters 300—304 (41 CFR Chapters 300—304).

This interim rule incorporates language based on Public Law 111-178, the Special Agent Samuel Hicks Families of Fallen Heroes Act, codified at 5 U.S.C. 5724d, to allow agencies to provide for relocation of dependents and the household effects of a “covered employee” whose death occurred as a result of personal injury sustained while in the performance of the employee’s duty as defined by the agency. The term “covered employees” means: (A) a law enforcement officer, as defined in 5 U.S.C. 5541; (B) an employee in or under the Federal Bureau of Investigation who is not described in subparagraph (A); and (C) a Customs and Border Protection officer, as defined in 5 U.S.C. 8331(31).

B. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action” although not economically significant, under section 3(f) of Executive Order 12866.

Accordingly, the rule has been reviewed by the Office of Management and Budget.

C. Regulatory Flexibility Act

This interim rule will not have 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 interim rule is also exempt from Regulatory Flexibility Act per 5 U.S.C. 553 (a)(2), because it applies to agency management or personnel. However, this interim rule is being published to provide transparency in the promulgation of Federal policies.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR 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.

E. Small Business Regulatory Enforcement Fairness Act

This interim 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 303-70

Government employees, Relocation, Transportation expenses, and Travel.

Dated: November 2, 2011

Martha Johnson,

Administrator of General Services

For the reasons set forth in the preamble, GSA amends 41 CFR part 303-70 as set forth below:

PART 303-70—AGENCY REQUIREMENTS FOR PAYMENT OF EXPENSES CONNECTED WITH THE DEATH OF CERTAIN EMPLOYEES AND FAMILY MEMBERS

1. The authority citation for 41 CFR part 303-70 is revised to read as follows:

Authority: 5 U.S.C. 5721-5738; 5741-5742; E.O. 11609, 3 CFR, 1971-1975 Comp., p 586; Presidential Memorandum dated September 12, 2011, " Delegation Under Section 2(a) of the Special Agent Samuel Hicks Families of Fallen Heroes Act."

§ 303-70.1 [Amended]

2. Amend § 303-70.1 by removing from paragraph (d) the period at the end of the sentence and adding “; or” in its place; and adding paragraph (e) to read as follows:

§ 303-70.1 When must we authorize payment of expenses related to an employee’s death?

* * * * *

(e) Performing official duties as determined by the head of agency and be a covered employee as provided in § 303-70.700.

3. Add Subpart H to read as follows:

**Subpart H—Transportation of Immediate Family Members, Baggage,
Household Goods, and Privately Owned Vehicle for Law**

Enforcement Assignment

Sec.

303-70.700 When an employee dies as a result of personal injury sustained while in the performance of the employee's law enforcement duties, either on official travel duties away from the official station, or at the current official station, must we provide transportation for the employee's immediate family, baggage, and household goods to an alternate residence destination?

303-70.701 What relocation expenses must we authorize for the immediate family under § 303-70.700?

303-70.702 Must we pay transportation costs to return the deceased employee's privately owned vehicle (POV) from the temporary duty (TDY) location or from an official station OCONUS under § 303-70.700?

**Subpart H—Transportation of Immediate Family Members, Baggage,
Household Goods, and Privately Owned Vehicle for Law**

Enforcement Assignment

§ 303-70.700 When an employee dies as a result of personal injury sustained while in the performance of the employee's law enforcement duties, either on official travel duties away from the official station, or at the current official station, must we provide transportation for the employee's immediate family, baggage, and household goods to an alternate residence destination?

Yes, if the head of the agency concerned (or a designee) determines that the employee died as a result of personal injury sustained while in the performance of the employee's duties, and the employee was:

- (a) A law enforcement officer as defined in 5 U.S.C. 5541;
- (b) An employee in or under the Federal Bureau of Investigation who is not described in paragraph (a); or
- (c) A Customs and Border Protection officer as defined in 5 U.S.C. 8331(31).

§ 303-70.701 What relocation expenses must we authorize for the immediate family under § 303-70.700?

If the place where the immediate family will reside is different from the place where the immediate family resided at the time of the employee's death, and within the United States, then the agency must approve the following expenses:

- (a) Transportation of the immediate family;
- (b) Moving of the household goods of the immediate family, including transporting, packing, crating, draying, and unpacking, not to exceed 18,000 pounds net weight;
- (c) Storage of household goods moved pursuant to paragraph (b) of this section, not to exceed 90 days; and
- (d) Transportation of one privately owned motor vehicle.

§ 303-70.702 Must we pay transportation costs to return the deceased employee's privately owned vehicle (POV) from the temporary duty (TDY) location or from an official station OCONUS under § 303-70.700?

Yes. The agency must pay costs associated with returning the POV from the following:

(a) TDY location to the employee's permanent official station, if the agency had authorized the use of the employee's POV at the TDY location as being advantageous to the Government; or

(b) Official station OCONUS to the employee's former actual residence or alternate destination as approved by the agency, if the agency determined that the use of the employee's POV was required accordance with Chapter 302, Part 302-9 of this title.

[Billing Code 6820-14]

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