

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

- 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

- 2. Section 51.166 is amended as follows:
 - a. By removing the words “4 µg/m³, 24-hour average,” and adding in their place “0 µg/m³” in paragraph (i)(5)(i)(c).
 - b. By adding a note to paragraph (i)(5)(i)(c).
 - c. By removing and reserving paragraph (k)(2).

The addition reads as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * *

(i) * * *

(5) * * *

(i) * * *

(c) Note to paragraph (i)(5)(i)(c): In accordance with *Sierra Club v. EPA*, 706 F.3d 428 (D.C. Cir. 2013), no exemption is available with regard to PM_{2.5}.

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PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 3. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

- 4. Section 52.21 is amended as follows:

- a. By removing the words “4 µg/m³, 24-hour average,” and adding in their place “0 µg/m³” in paragraph (i)(5)(i)(c).
- b. By adding a note to paragraph (i)(5)(i)(c).
- c. By removing and reserving paragraph (k)(2).

The addition reads as follows:

§ 52.21 Prevention of significant deterioration of air quality.

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(i) * * *

(5) * * *

(i) * * *

(c) Note to paragraph (i)(5)(i)(c): In accordance with *Sierra Club v. EPA*, 706 F.3d 428 (DC Cir. 2013), no exemption is available with regard to PM_{2.5}.

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 300-90

[FTR Amendment 2013-04; FTR Case 2011-310; Docket Number 2013-0012, Sequence 1]

RIN 3090-AJ23

Federal Travel Regulation (FTR); Telework Travel Expenses Test Programs

AGENCY: Office of Government-wide Policy, U.S. General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is amending the Federal Travel Regulation (FTR) to incorporate the Telework Enhancement Act of 2010, which establishes and authorizes telework travel expenses test programs, authorizes reimbursement for any necessary travel expenses in conjunction with such a test program in lieu of any payment otherwise authorized or required by the FTR, and permits waiver of travel expense reimbursements by participating employees.

DATES: *Effective date:* This final rule is effective January 8, 2014.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Rick Miller, Office of Governmentwide Policy, at 202-501-3822 or email at rodney.miller@gsa.gov. Please cite FTR Amendment 2013-04, FTR case 2011-310. Contact the U.S. General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405-0001, 202-501-4755, for information pertaining to status or publication schedules.

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. The overall implementing authority is the FTR, codified in Title 41 of the Code of Federal Regulations, chapters 300–304 (41 CFR chapters 300–304).

This final rule incorporates Section 3 of Public Law 111-292, the “Telework Enhancement Act of 2010,” codified in 5 U.S.C. 5711, which authorizes the creation of agency telework travel expenses test programs. Under a telework travel expenses test program, if a participating employee voluntarily

relocates from his/her official duty station to a new official station, then the employing agency can establish a reasonable maximum number of occasional visits to the pre-existing official station (e.g., one visit per month/quarter, four times a year) before that participating employee is eligible for payment of any accrued travel expenses by that agency for travel to the pre-existing official station. The term “voluntarily relocate” means that a participating employee requests to relocate from the pre-existing official station to a telework location, and therefore, the agency has not made a determination that relocation is in the best interest of the Government.

An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected cost and benefits and a set of criteria for evaluating the effectiveness of the program. As provided in 5 U.S.C. 5711, under an approved test program, an agency may provide a participating employee with the option to waive any payment authorized or required under 5 U.S.C. Chapter 57, Subchapter 1.

An agency will be required to submit an annual report on the results of the test program including overall costs and benefits.

Pursuant to this authority, this final rule amends 41 CFR chapter 300 by adding part 300-90 regarding authority and procedures for agencies to conduct a telework travel expenses test program.

B. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action” and is not economically significant, under section 3(f) of E.O. 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

C. 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 Administrative Procedure Act per 5 U.S.C. 553 (a)(2), because it applies to agency management or personnel.

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 final rule is also exempt from Congressional review prescribed under 5 U.S.C. 801, since it relates solely to agency management or personnel.

List of Subjects in 41 CFR Part 300–90

Government employees, Travel and transportation expenses.

Dated: October 29, 2013.

Dan Tangherlini,

Acting Administrator of General Services.

For the reasons set forth in the Preamble, under 5 U.S.C. 5701–5711, 41 CFR chapter 300 is amended by adding part 300–90 to read as set forth below:

PART 300–90—TELEWORK TRAVEL EXPENSES TEST PROGRAMS

Sec.

300–90.1 What is a telework travel expenses test program?

300–90.2 Who may authorize test programs?

300–90.3 What must be done to apply for test program authority?

300–90.4 How many test programs may be authorized by GSA throughout the Government?

300–90.5 What factors will GSA consider in approving a request for a telework travel test program?

300–90.6 What is authorized under the test programs?

300–90.7 What is the duration of test programs?

300–90.8 What must we do to apply for a test program extension?

300–90.9 What reports are required for a test program?

Authority: 5 U.S.C. 5707 and 5711.

§ 300–90.1 What is a telework travel expenses test program?

It is a program that permits an agency to test new and innovative methods of reimbursing telework travel expenses without seeking a waiver of current rules or authorizing legislation.

§ 300–90.2 Who may authorize test programs?

The Administrator of General Services may authorize agencies to conduct test programs when the Administrator determines the proposed tests to be in the interest of the Government.

§ 300–90.3 What must be done to apply for test program authority?

The head of the agency or designee must design the test program to enhance cost savings or other efficiencies for the Government and submit in writing to the Administrator of General Services (Attention: MA), 1800 F Street NW., Washington, DC 20405–0001:

(a) An explanation of the test program;

(b) If applicable, the specific provisions of the FTR from which the agency is deviating, and confirmation between the agency and the participating employee of any waivers of entitlements by the employee under 5 U.S.C. Chapter 57, Subchapter I;

(c) An analysis of the expected costs and benefits;

(d) A set of criteria for evaluating the effectiveness of the program; and

(e) Agency procedures regarding how and when a telework program is terminated for the participating employee when he or she voluntarily relocated to a telework location.

§ 300–90.4 How many test programs may be authorized by GSA throughout the Government?

No more than 10 telework travel expense test programs may be conducted at the same time.

§ 300–90.5 What factors will GSA consider in approving a request for a telework travel test program?

The following factors will be considered:

(a) Potential cost savings or other efficiencies that accrue to the Government;

(b) Application of results to other agencies;

(c) Feasibility of successful implementation;

(d) Number of tests, if any, already authorized to the same agency;

(e) Whether the request meets the requirements of § 300–90.3;

(f) Other agency requests under consideration at the time of submission; and

(g) Uniqueness of proposed test.

§ 300–90.6 What is authorized under the test programs?

Under a telework expenses test program authorized by the Administrator of General Services, the agency may:

(a) Pay any necessary telework travel expenses in lieu of payments authorized or required under 5 U.S.C. Chapter 57, Subchapter I for employees participating in a telework program;

(b) Provide a participating employee with the option to waive any payment authorized or required under 5 U.S.C. Chapter 57, Subchapter 1; or

(c) Establish, for a participating employee who voluntarily relocates from the pre-existing duty station of that employee, a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any incurred travel expenses by that agency for travel to the pre-existing duty station.

§ 300–90.7 What 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 24 months, but not beyond December 8, 2017, the expiration of the test authority (see § 300–90.8).

§ 300–90.8 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: MA), 1800 F Street NW., Washington, DC 20405–0001, not later than 120 days prior to the expiration of the test period. The request for extension must:

(a) Contain the test program results to that date;

(b) Clearly enumerate the benefits, qualitatively and/or quantitatively, of granting a test program extension; and

(c) Specify the duration of time for which an extension is requested.

§ 300–90.9 What reports are required for a test program?

(a) The Administrator of General Services must submit to Congress a copy of any approved or extended test program at least 30 days before the effective date of the authorized test program or extension.

(b) The agency authorized to conduct the test program must submit:

(1) An annual report on the progress of the test, submitted to the U.S. General Services Administration, Office of Government-wide Policy, Office of

Asset and Transportation Management (Attention: MA), Washington, DC 20405. The Administrator or designee may terminate the test program approval for failure to comply with this reporting requirement; and

(2) A final report on the results of the test program must be submitted to the U.S. General Services Administration, Office of Government-wide Policy, Office of Asset and Transportation Management (Attention: MA), Washington, DC 20405, the Telework Managing Officer of that agency, and to the appropriate committees of Congress not later than 3 months after completion of the 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. The results in a report may include:

(1) The total number of visits a participating employee made to the pre-existing official station;

(2) The total number of visits and travel expenses paid by the agency;

(3) The total number of visits and travel expenses paid by the participating employee; or

(4) Any other information the agency determines useful to aid the Administrator of General Services, the Telework Managing Officer(s), and Congress in understanding the test program and the impact of the program.

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specifying additional measures that may be necessary to ensure the preservation of eagles, should monitoring data indicate the need for the measures. This change will facilitate the responsible development of renewable energy and other projects designed to operate for decades, while continuing to protect eagles consistent with our statutory mandates. For a permit valid for 5 years or more, we will assess an application processing fee sufficient to offset the estimated costs associated with working with the applicants to develop site plans and conservation measures, and prepare applications, and for us to review applications. We also will collect an administration fee when we issue a permit and at 5-year intervals.

DATES: This rule goes into effect on January 8, 2014.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Migratory Bird Management, at 703-358-1714.

SUPPLEMENTARY INFORMATION:

Background

The Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d) (Eagle Act or BGEPAct) prohibits take of bald eagles and golden eagles by otherwise lawful activities, except pursuant to Federal regulations. The Eagle Act regulations at title 50, part 22 of the Code of Federal Regulations (CFR), define the “take” of an eagle to include the following broad range of actions: “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” (§ 22.3). The Eagle Act allows the Secretary of the Interior to authorize certain otherwise prohibited activities through regulations. The Secretary is authorized to prescribe regulations permitting the “taking, possession, and transportation of [bald eagles or golden eagles] . . . for the scientific or exhibition purposes of public museums, scientific societies, and zoological parks, or for the religious purposes of Indian tribes, or . . . for the protection of wildlife or of agricultural or other interests in any particular locality,” provided such permits are “compatible with the preservation of the bald eagle or the golden eagle” (16 U.S.C. 668a).

On September 11, 2009, we, the U.S. Fish and Wildlife Service (FWS or Service), published a final rule that established new permit regulations under the Eagle Act for incidental take of eagles (74 FR 46836) while conducting otherwise lawful activities. The regulations at 50 CFR 22.26 provide for permits to take bald eagles and golden eagles when the taking is associated with, but not the purpose of, an otherwise lawful activity. The

regulations provide for both standard permits, which authorize individual instances of take that cannot practicably be avoided, and programmatic permits, which authorize recurring take that is unavoidable even after implementation of Advanced Conservation Practices (ACPs). We have issued standard permits for commercial and residential construction, transportation projects, maintenance of utility lines and dams, and in a variety of other circumstances where take is expected to occur in a limited timeframe and specific location. For instance, take that does not reoccur, such as temporary abandonment of a nest, or is caused solely by indirect effects, does not require a programmatic permit, but may require a standard permit.

“Programmatic take” of eagles is defined at 50 CFR 22.3 as “take that is recurring, is not caused solely by indirect effects, and that occurs over the long term or in a location or locations that cannot be specifically identified.” For additional explanation of programmatic take and programmatic permits, see 74 FR 46841–46843.

We may issue programmatic permits for disturbance and for take resulting in mortalities, based on implementation of ACPs developed in coordination with us. ACPs are “scientifically supportable measures approved by the Service that represent the best available techniques to reduce eagle disturbance and ongoing mortalities to a level where remaining take is unavoidable” (50 CFR 22.3). Most take authorized under § 22.26 has been in the form of disturbance. However, permits may authorize lethal take that is incidental to an otherwise lawful activity, such as mortalities caused by collisions with wind turbines, powerline electrocutions, and other potential sources of incidental take.

On the same day that the proposed rule for this rulemaking was published in the **Federal Register** (77 FR 22267, April 13, 2012), we also published an advance notice of proposed rulemaking (ANPR) looking at all aspects of the 2009 permit regulations (see 77 FR 22278). The ANPR sought public input on how the regulations could be revised to be more efficient or otherwise improved. The notice highlighted three issues about which we were particularly interested in hearing from the public: (1) The standard for programmatic permits that take must be reduced to the point where it is unavoidable; (2) mitigation requirements and options; and (3) our interpretation of the Eagle Act “Preservation Standard.” We have reviewed the public comments on the ANPR. We intend to propose additional revisions to the permit regulations based

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 22

[Docket No. FWS-R9-MB-2011-0054; FF09M21200-134-FXMB1231099BPP0]

RIN 1018-AX91

Eagle Permits; Changes in the Regulations Governing Eagle Permitting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We revise the regulations for permits for take of golden eagles (*Aquila chrysaetos*) and bald eagles (*Haliaeetus leucocephalus*) that is associated with, but not the purpose of, an activity. We extend the maximum term for programmatic permits to 30 years, while maintaining discretion to issue permits of shorter duration as appropriate. The permits must incorporate conditions