

175A. We are also finding the motor vehicle emissions budgets shown in Table 1 for 2020 and 2025 adequate and approving the budgets for transportation conformity purposes because we find they meet all applicable criteria for such budgets including the adequacy criteria under 40 CFR 93.118(e).

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of E.O. 12898 of achieving environmental justice for

people of color, low-income populations, and indigenous peoples.

In addition, there are no areas of Indian country within the Indian Wells Valley planning area, and the state plan is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 20, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: December 22, 2022.

**Martha Guzman Aceves,**  
*Regional Administrator, Region IX.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart F—California

- 2. Section 52.220 is amended by adding paragraph (c)(594) to read as follows:

##### § 52.220 Identification of plan—in part.

\* \* \* \* \*

(c) \* \* \*

(594) The following plan was submitted on July 30, 2020, by the Governor's designee as an attachment to a letter dated July 23, 2020.

(i) [Reserved]

(ii) *Additional materials.* (A) Eastern Kern Air Pollution Control District.

(1) Indian Wells Valley Second 10-Year PM<sub>10</sub> Maintenance Plan, adopted on June 25, 2020.

(2) [Reserved]

(B) [Reserved]

\* \* \* \* \*

[FR Doc. 2022–28307 Filed 1–17–23; 8:45 am]

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#### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Parts 301–10, 301–70

[FTR Case 2022–01; Docket Number GSA–FTR–2022–0010, Sequence 2]

**RIN 3090–AK61**

#### Federal Travel Regulation (FTR); Constructive Cost

**AGENCY:** Office of Government-wide Policy (OGP), General Services Administration.

**ACTION:** Final rule.

**SUMMARY:** GSA is issuing a final rule amending the Federal Travel Regulation (FTR) to clarify the calculation of "constructive cost" as it relates to temporary duty (TDY) travel. GSA is also making technical changes regarding what method of transportation agencies should compare privately owned vehicle costs to when preparing a constructive cost analysis. These clarifications are intended to produce

better estimates for agency decision makers.

**DATES:** Effective February 17, 2023.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jill Denning, Office of Government-wide Policy, at 202-208-7642 or email at [travelpolicy@gsa.gov](mailto:travelpolicy@gsa.gov) for clarification of content. For information pertaining to status or publication schedules, contact The Regulatory Secretariat (M1V1CB), at 1800 F Street NW, Washington, DC 20405, 202-501-4755 or email at [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Please cite FTR case 2022-01.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

GSA published a proposed rule at 87 FR 32106 on May 27, 2022, to clarify the calculation of “constructive cost” as it relates to temporary duty (TDY) travel. This rule finalizes the proposed changes to section 301-10.309, regarding what method of transportation agencies should compare privately owned vehicle (POV) costs to when preparing a constructive cost analysis, and makes minor editorial adjustments in order to clarify intent.

When employees perform official business away from their official station, agencies must, in authorizing the TDY travel, select the transportation method most advantageous to the Government, when cost and other factors are considered. Travel must be by the most expeditious means of transportation practicable and commensurate with the nature and purpose of the duties. In addition, the agency must consider energy conservation, total cost to the Government (including costs of per diem, overtime, lost work time, and actual transportation cost), total distance traveled, number of points visited, and number of travelers. The most advantageous transportation method by order of precedence is common carrier, Government-furnished automobile, rental car, and POV.

Regardless of the method of transportation the agency selects in the travel authorization, Federal employees may choose to use a POV while on TDY. However, if the agency has selected a method of transportation other than POV for the employee’s use because it is more advantageous to the Government, the agency must perform a cost comparison, known as “constructive cost”, to determine how much the agency should reimburse the traveler when the traveler chooses a POV over the agency-selected method of transportation. If the constructive cost of the agency-selected method of transportation is less than the cost of traveling by POV, the employee only

receives that limited amount, regardless of how much it costs to use a POV. If the constructive cost shows that the POV cost is less than the agency-selected method, then the employee will receive the total POV-related costs (as listed in 41 CFR 301-10.304). (Agencies are reminded that the FTR does not authorize agencies to require that employees use their POV for TDY travel, even if the costs will be less for the Government.)

GSA is aware that agencies may mistakenly calculate TDY constructive costs by only comparing the selected transportation method with the POV mileage rates without also factoring in related travel costs, such as per diem expenses, parking, baggage fees, etc. Not factoring in these other costs leads to an incomplete calculation of the total constructive travel cost that employees may incur.

The Civilian Board of Contract Appeals (CBCA) and its predecessor, the General Services Board of Contract Appeals (GSCBA) have, in their decisions on TDY constructive costs, opined that when comparing the total allowable costs for travel by a method other than that most advantageous to the Government, with the constructive cost of traveling by the agency-selected method, agencies should think through the complete travel experience and include other potential costs. (*See In the Matter of Russell E. Yates*, GSCBA No. 15109-TRAV (Jan. 28, 2000); *In the Matter of Stephen M. England*, CBCA 3903-TRAV (Jan. 30, 2015)). For example, if the agency selected travel by air via common carrier but the employee chose to travel by POV, in calculating the constructive cost of air travel the agency should include potential costs such as the expected cost of lodging as well as meals, incidental expenses, airfare, baggage, use of a rental car, and transportation to and from the airport using a taxi or transportation network company (TNC), and perhaps others depending on the individual situation. Even though these costs may not actually be incurred when the employee uses the POV instead of flying via a common carrier, the relevant travel costs should be included in the agency’s constructive cost analysis to determine how much the agency-selected method would have cost the agency in total.

Additionally, GSA is clarifying the constructive cost methodology stated in § 301-10.309. GSA amended this section in 2015 to include the use of rental cars as a potential transportation option, in addition to the use of common carriers (80 FR 27259). However, when determining the constructive cost, the section currently

states that agencies should not exceed the total constructive cost of the “authorized method of common carrier transportation,” when it should read “authorized method of transportation” as is consistent with 41 CFR 301-70.105(a).

**II. Discussion of the Final Rule**

GSA did not receive any public comments related to the proposed rule and has not made any substantive changes to the regulatory language from the proposed to final rule.

While difficult to quantify, GSA expects some savings in travel costs as a result of this final rule; GSA anticipates that no additional travel costs will result from agencies performing more comprehensive constructive cost comparisons as agencies will better understand the impact of method of transportation decisions, and therefore should be better positioned to select the method of transportation most advantageous to the Government. Agencies also should be able to better limit TDY costs incurred by employees who choose to use their POV instead of the agency-selected transportation method. Common carrier, Government-furnished automobile, and rental car are presumed to be the most advantageous methods of transportation, and are often less expensive than travel by POV. Administrative savings from having a more comprehensive process should also lessen the time agencies and employees spend working through confusion or differences in interpretation, hopefully with fewer employees requesting CBCA review of claims for entitlement to travel expenses.

**III. 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 is not a significant regulatory action, and therefore, is not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

**IV. Congressional Review Act**

OIRA has determined that this rule is not a “major rule” as defined by 5 U.S.C. 804(2). Additionally, this rule is

excepted from Congressional Review Act reporting requirements prescribed under 5 U.S.C. 801 since it relates to agency management or personnel under 5 U.S.C. 804(3)(b).

## V. 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 changes are administrative in nature and only affect Government employees. Therefore, a Final Regulatory Flexibility Analysis has not been performed.

## VI. 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.*

## List of Subjects

41 CFR Parts 301–10, 301–70

Government employees, Travel and transportation expenses, common carriers.

Robin Carnahan

Administrator of General Services.

For the reasons set forth in the preamble GSA amends 41 CFR parts 301–10 and 301–70 as set forth below:

## PART 301–10—TRANSPORTATION EXPENSES

- 1. The authority citation for 41 CFR part 301–10 continues to read as follows:

**Authority:** 5 U.S.C. 5707; 40 U.S.C. 121(c); 49 U.S.C. 40118; Office of Management and Budget Circular No. A–126, “Improving the Management and Use of Government Aircraft.” Revised May 22, 1992.

- 2. Revise § 301–10.309 to read as follows:

### § 301–10.309 What will I be reimbursed if I am authorized to use common carrier transportation or a rental vehicle and I use a POV instead?

You will be reimbursed the applicable POV rate on a mileage basis, plus per diem and related travel expenses, not to exceed the total constructive cost of the authorized method of transportation. Your agency must determine the constructive cost in accordance with § 301–70.105(a).

## PART 301–70—INTERNAL POLICY AND PROCEDURE REQUIREMENTS

- 3. The authority citation for 41 CFR part 301–70 is revised to read as follows:

**Authority:** 5 U.S.C. 5707; 40 U.S.C. 121(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701, note); OMB Circular No. A–126, revised May 22, 1992; OMB Circular A–123, Appendix B, revised August 27, 2019.

- 4. Amend § 301–70.105 by revising paragraph (a) to read as follows:

### § 301–70.105 May we prohibit an employee from using a POV on official travel?

\* \* \* \* \*

(a) Limit reimbursement to the constructive cost of the authorized method of transportation, which is the sum of travel and transportation expenses the employee would reasonably have incurred had the employee traveled by the method of transportation deemed to be most advantageous to the Government. The calculation will necessarily involve assumptions. Examples of related expenses that could be considered constructive costs include, but are not limited to, taxi and TNC fares, baggage fees, rental car costs, tolls, ferry fees, and parking charges; and

\* \* \* \* \*

- 5. Amend § 301–70.506 by revising paragraph (b) to read as follows:

### § 301–70.506 How do we define actual cost and constructive cost when an employee interrupts a travel assignment because of an incapacitating illness or injury?

\* \* \* \* \*

(b) Constructive cost is the sum of travel and transportation expenses the employee would reasonably have incurred for round-trip travel between the official station and the alternate location plus per diem calculated for the appropriate en route travel time. The calculation will necessarily involve assumptions. Examples of related expenses that could be considered constructive costs include, but are not limited to, taxi and TNC fares, baggage fees, rental car costs, tolls, ferry fees, and parking charges.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 88

[Docket No. CDC–2022–0052; NIOSH–347]

RIN 0920–AA82

### World Trade Center (WTC) Health Program; Addition of Uterine Cancer to the List of WTC-Related Health Conditions

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** In accordance with the World Trade Center (WTC) Health Program’s regulations, which establish procedures for adding a new condition to the list of covered health conditions, this final rule adds malignant neoplasms of corpus uteri and uterus, part unspecified (uterine cancer) to the List of WTC-Related Health Conditions.

**DATES:** This rule is effective on January 18, 2023.

**FOR FURTHER INFORMATION CONTACT:** Rachel Weiss, Public Health Analyst, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS: C–46, Cincinnati, OH 45226; telephone: (404) 498–2500 (this is not a toll-free number); email: [NIOSHregs@cdc.gov](mailto:NIOSHregs@cdc.gov).

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