

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Household Products Containing Hydrocarbons; Extension of Comment Period on Notice of Data Availability

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of data availability; extension of comment period.

SUMMARY: In the *Federal Register* of April 11, 2001, 66 FR 18738, the Consumer Product Safety Commission ("CPSC" or "Commission") invited comment on: An analysis conducted by CPSC staff on brand name-specific data on exposure to possible hydrocarbon-containing cosmetics; and an additional staff analysis of data available when the Commission issued a Notice of Proposed Rulemaking ("NPR") proposing child-resistant packaging requirements for household chemical and cosmetic products with viscosity less than 100 Saybolt Universal Seconds ("SUS") containing 10 percent or more hydrocarbons, 65 FR 93 (January 3, 2000). In response to a request on behalf of the Cosmetic, Toiletry, and Fragrance Association to extend the comment period on these analyses for 60 days, the Commission is extending it for an additional 30 days, that is, through Monday, June 11, 2001.¹ Today's document does not re-open the comment period on the NPR.

DATES: The Office of the Secretary must receive any comments on the staff analyses not later than June 11, 2001.

ADDRESSES: Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504-0800. Comments also may be filed by facsimile to (301) 504-0127 or by e-mail to cpsc-os@cpsc.gov. Comments should be captioned "Notice of Additional Hydrocarbon Data."

FOR FURTHER INFORMATION CONTACT: Suzanne Barone, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0477, ext. 1196.

SUPPLEMENTARY INFORMATION: Copies of the staff analyses may be obtained from

the Office of the Secretary. The analyses are also available on the CPSC world wide web site at: <http://www.cpsc.gov/library/foia/foia01/brief/hydrocar.pdf>

Comments on the analyses must be received by the Office of the Secretary not later than Monday, June 11, 2001.

Dated: April 30, 2001.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 300-2 and Chapter 304

[FTR Amendment]

RIN 3090-AE19

Federal Travel Regulation; Payment of Travel Expenses From a Non-Federal Source

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Federal Travel Regulation (FTR) for payment of travel expenses from a non-Federal source. This amendment is written in plain language using a question and answer format in continuation of the General Services Administration's (GSA's) efforts to make the FTR easier to understand and to use.

DATES: Comments must be received on or before July 3, 2001.

ADDRESSES: Written comments should be sent to: Mr. Michael E. Hopkins, Regulatory Secretariat (MVR), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW., Washington, DC 20405-0001. E-Mail: RIN.3090-AE19@gsa.gov

FOR FURTHER INFORMATION CONTACT: Jim Harte, Travel Team Leader, Travel Management Policy Division (MTT), telephone (202) 501-0483.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule revises the coverage published in the *Federal Register* as Interim Rule 3 (56 FR 9878, March 8, 1991) and Interim Rule 4 (57 FR 53283, November 9, 1992). This proposed rule is written in the "plain language" style of regulation writing as a continuation of the General Services Administration's (GSA) effort to make the FTR easier to understand and use. Questions are in the first person, and answers are in the second person. GSA

uses a "we" and "you" question when referring to an agency, and an "I", and "you" question when referring to the employee. However, the rules stated in either section apply to both the employee and agency. Another example of GSA's implementation of plain language is the use of the term "meeting" throughout this part instead of the phrase "meeting or similar function." This change is indicated in the definition of "meeting or similar function" and no substantive change is intended by this change.

B. Proposed Changes

1. To permit after-the-fact agency acceptance of payment from a non-Federal source for travel expenses to a meeting under the following two circumstances prescribed in section 304-3.13:

(a) When your agency has not approved acceptance of any payments from that non-Federal source prior to the trip; and

(b) When your agency has approved acceptance of payment for some but not all travel expenses from a non-Federal source prior to the trip. In this case, your agency's prior authorization of acceptance of payment from the non-Federal source in question is deemed authorization for you to accept, on behalf of your agency, payment for additional travel, subsistence, and related expenses from the same non-Federal source, as long as the two following conditions in section 304-3.13(a) are met:

(i) That the expenses paid by the non-Federal source be comparable in value to those offered or purchased by other similarly situated attendees; and

(ii) That your agency has not specifically declined to accept certain payments from a non-Federal source for your trip. If the conditions are not met, you will be subject to the penalties specified in section 304-3.17 (i.e., you may be required to pay the U.S. Treasury the amount of the payment accepted without being eligible for reimbursement from your agency).

2. The removal of the requirement that a meeting or similar function be sponsored or co-sponsored by a Federal agency in order to fall within the scope of this part.

C. Executive Order 12866

GSA has determined that this proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

¹ Commissioners Mary Sheila Gall and Thomas H. Moore voted to extend the comment period by 30 days. Chairman Ann Brown voted to deny the request to extend the comment period.

D. Regulatory Flexibility Act

This proposed rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501, *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This proposed 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 Parts 300–2, 304–1, 304–2, 304–3, 304–4, 304–5, 304–6, 304–7, 304–8, and 304–9

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR chapters 300 and 304 as follows:

CHAPTER 300—[AMENDED]**PART 300–2—HOW TO USE THE FTR**

1. The authority citation for 41 CFR part 300–2 continues to read as follows:

Authority: 5 U.S.C. 5707; 5 U.S.C. 5738; 5 U.S.C. 5741–5742; 20 U.S.C. 905(a); 31 U.S.C. 1353; 40 U.S.C. 486(c); 49 U.S.C. 40118; E.O. 11609, 3 CFR, 1971–1975 Comp., p. 586.

2. Section 300–2.22 is amended by revising the table to read as follows:

§ 300–2.22 Who is subject to the FTR?

* * * * *

For	The employee provisions are contained in	And the agency provisions are contained in
Chapter 301	Subchapters A, B, and C	Subchapter D.
Chapter 302	Subchapters A, B, C, D, E, and F	Subchapters A, B, C, D, E, and F.
Chapter 303	N/A	Part 303–70.
Chapter 304	Subchapter A	Subchapters B and C.

3. Chapter 304 is revised to read as follows:

CHAPTER 304—PAYMENT OF TRAVEL EXPENSES FROM A NON-FEDERAL SOURCE**Subchapter A—Employee's Acceptance of Payment From A Non-Federal Source for Travel Expenses***Part*

- 304–1 Authority
- 304–2 Definitions
- 304–3 Employee responsibility

Subchapter B—Agency Requirements

- 304–4 Authority
- 304–5 Agency responsibilities
- 304–6 Payment guidelines

Subchapter C—Acceptance of Payment for Training

- 304–7 Authority/applicability
- 304–8 Definitions
- 304–9 Contributions and awards

SUBCHAPTER A—EMPLOYEE'S ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES**PART 304–1—AUTHORITY***Sec.*

- 304–1.1 To whom do the pronouns “I”, “you”, and their variants refer throughout this part?
- 304–1.2 Under what authority may I accept payment of travel expenses from a non-Federal source?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–1.1 To whom do the pronouns “I”, “you”, and their variants refer throughout this part?

Use of pronouns “I”, “you”, and their variants throughout this part refers to the employee.

§ 304–1.2 Under what authority may I accept payment of travel expenses from a non-Federal source?

Under the authority of this part and 31 U.S.C. 1353, you may accept payment of travel expenses from a non-Federal source on behalf of your agency but not on behalf of yourself when specifically authorized to do so by your agency and only for official travel to a meeting. Except as provided in § 304–3.12 of this subchapter, your agency must approve acceptance of such payments in advance of your travel.

PART 304–2—DEFINITIONS

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–2.1 What definitions apply to this chapter?

The following definitions apply to this chapter:

Employee means an appointed officer or employee of an agency, including a special Government employee as defined in 18 U.S.C. 202, or an expert or consultant appointed under the authority of 5 U.S.C. 3109.

Meeting or similar function (meeting) means a conference, seminar, speaking engagement, symposium, training course, or similar event that takes place away from the employee's official station. *Meeting* as defined in this chapter does not include a meeting or other event required to carry out an

agency's statutory or regulatory functions such as investigations, inspections, audits, site visits, negotiations, or litigation. *Meeting* also does not include promotional vendor training or other meetings held for the primary purpose of marketing the non-Federal sources products or services, or long term TDY or training travel. A meeting or similar function need not be widely attended for purposes of this definition and includes but is not limited to the following:

(1) An event where the employee will participate as a speaker or panel participant focusing on his/her official duties or on the policies, programs, or operations of the agency.

(2) A conference, convention, seminar, symposium or similar event where the primary purpose is to receive training other than promotional vendor training, or to present or exchange substantive information of mutual interest to a number of parties.

(3) An event where the employee will receive an award or honorary degree, which is in recognition of meritorious public service that is related to the employee's official duties, and which may be accepted by the employee consistent with the applicable standards of conduct regulations.

Non-Federal source means any person or entity other than the Government of the United States. The term includes any individual, private or commercial entity, nonprofit organization or association or international or multinational organization (irrespective of whether an agency holds membership in the organization or association), or foreign, State, or local government

(including the government of the District of Columbia).

Payment means a monetary payment from a non-Federal source to a Federal agency for travel, subsistence, and related expenses by check or other monetary instrument payable to the Federal agency (i.e., electronic fund transfer (EFT), money order, charge card, etc.) or payment in kind.

Payment in kind means transportation, food, lodging, or other travel-related services provided by a non-Federal source instead of monetary payments to the Federal agency for these services. Payment in kind also includes waiver of any fees that a non-Federal source normally collects from meeting attendees (e.g., registration fees).

Travel, subsistence, and related expenses (travel expenses) means the same types of expenses payable under chapter 301 of this title, the Foreign Affairs Manual (FAM), and the Joint Travel Regulations (JTR) for transportation, food, lodging, or other travel-related services for official travel (e.g., baggage expenses, services of guides, drivers, interpreters, communication services, hire of conference rooms, lodging taxes, laundry/dry cleaning, taxi fares). These expenses also include conference or training fees (in whole or in part), as well as benefits that cannot be paid under the applicable travel regulations, but which are incident to the meeting, provided in kind, and made available by the meeting sponsor(s) to all attendees. For example, this definition as applied to this chapter would allow an employee or spouse to attend sporting event hosted by the sponsor(s) in connection with the meeting that is available to all participants. However, it would not allow the employee to accept tickets to a professional sporting event, concert or similar event, for use at a later date even if such tickets were given to all other participants. The Foreign Affairs Manual is obtainable from: Bureau of Administration, A/IM/CST/MMS/DIR, Room 264, U.S. Department of State, Washington, DC 20520; (202) 647-3602. The Joint Travel Regulations are obtainable from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20342-0001, or available for downloading from the internet at <http://www.dtic.mil/perdiem>.

PART 304-3—EMPLOYEE RESPONSIBILITY

Subpart A—General

Sec.

- 304-3.1 To whom do the pronouns “we”, “you”, and their variants refer throughout this part?
- 304-3.2 What is the purpose of this part?
- 304-3.3 May my agency or I accept payment for travel expenses to a meeting from a non-Federal source?
- 304-3.4 What payments may my agency or I accept from a non-Federal source?
- 304-3.5 May I solicit payment of my travel expenses from a non-Federal source to attend a meeting?
- 304-3.6 May I inform a non-Federal source of my agency’s authority to accept payment for travel expenses to attend a meeting?
- 304-3.7 What must I do if I am contracted directly by a non-Federal source offering to pay my travel expenses to attend a meeting?
- 304-3.8 Must I adhere to the provisions of the Fly America Act when I receive air transportation to a meeting furnished or paid by a non-Federal source?
- 304-3.9 May I use premium-class other than first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?
- 304-3.10 May I use first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?
- 304-3.11 Am I limited to the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations for travel expenses paid by a non-Federal source?
- 304-3.12 Must I receive advance approval from my agency before I perform travel paid by a non-Federal source to attend a meeting?
- 304-3.13 After I begin travel to a meeting, what should I do if a non-Federal source offers to pay for one or more of my travel expenses without my or my agency’s prior knowledge?
- 304-3.14 May a non-Federal source pay for my spouse to accompany me to a meeting?
- 304-3.15 Am I required to submit a report of payment received from a non-Federal source by my agency?

Subpart B—Reimbursement Claims

- 304-3.16 What must I submit to my agency for reimbursement when a non-Federal source pays all or part of my travel expenses to attend a meeting?

Subpart C—Penalties

- 304-3.17 What happens if I accept a payment from a non-Federal source that is in violation of this part?

Subpart D—Relation to Other Authorities

- 304-3.18 Are there other situations when I may accept payment from a non-Federal source for my travel expenses?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

Subpart A—General

§ 304-3.1 To whom do the pronouns “we”, “you”, and their variants refer throughout this part?

Use of pronouns “we”, “you”, and their variants throughout this part refers to the agency.

§ 304-3.2 What is the purpose of this part?

The purpose of this part is to establish Governmentwide policy and guidance for acceptance by a Federal agency of payment for travel expenses from a non-Federal source for employees to attend meetings. It describes how such payments must be accepted by the agency for travel of agency employee(s) and/or his/her spouse for official Government travel. Except as provided in § 304-3.13, advance agency approval is required to receive such payments.

§ 304-3.3 May my agency or I accept payment for travel expenses to a meeting from a non-Federal source?

Yes, you or your agency may accept such a payment from a non-Federal source, but you may only accept when specifically authorized to do so by your agency in connection with official travel under this part. Except as provided in § 304-3.13, your agency must approve acceptance of such payment in advance of your travel.

§ 304-3.4 What payments may my agency or I accept from a non-Federal source?

You or your agency may accept payments from a non-Federal source for all of your official travel expenses to attend a meeting, or any portion of those travel expenses mutually agreed upon between your agency and the non-Federal source. You may not accept payments for travel that is not to attend a meeting under this part. However, you may accept payments under other authorities (see § 304-3.18).

§ 304-3.5 May I solicit payment of my travel expenses from a non-Federal source to attend a meeting?

No, you may not solicit payment for travel expenses from a non-Federal source to attend a meeting.

§ 304-3.6 May I inform a non-Federal source of my agency’s authority to accept payment for travel expenses to attend a meeting?

Yes, you or your agency may inform the non-Federal source of your agency’s authority to accept payment for travel expenses to attend a meeting.

§ 304-3.7 What must I do if I am contacted directly by a non-Federal source offering to pay my travel expenses to attend a meeting?

If you are contacted directly by a non-Federal source offering to pay any part

of your travel expenses to attend a meeting, you must inform your agency, so that the authorized agency official can determine whether to accept the payment.

§ 304-3.8 Must I adhere to the provisions of the Fly America Act when I receive air transportation to a meeting furnished or paid by a non-Federal source?

No, if the payment or ticket was paid in full directly by the non-Federal source or reimbursed to your agency by the non-Federal source, the provisions of the Fly America Act do not apply. (See §§ 301-10.131 through 301-10.143 of this title.)

§ 304-3.9 May I use premium-class other than first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?

Yes, you may use premium other than first-class common carrier accommodations if your agency authorizes you to do so as prescribed in § 304-5.6 of this chapter.

§ 304-3.10 May I use first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?

Generally, you may not use first-class common carrier accommodations when a non-Federal source pays in full for your transportation expenses to attend a meeting. However, when you meet one of the criteria for first class travel contained in §§ 301-1.123, 301-10.162 and 301-10.183 of this title and when authorized to do so by your agency in accordance with § 304-5.7 of this chapter, you may use first-class accommodations.

§ 304-3.11 Am I limited to the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations for travel expenses paid by a non-Federal source?

Generally, you are limited to the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations for travel expenses paid by a non-Federal source.

(a) Subsistence allowances are usually limited to the maximum subsistence allowances (per diem or actual expense) prescribed in chapter 301 of this title for travel in CONUS, by the Secretary of Defense for travel in non-foreign areas and by the Secretary of State for travel in foreign areas. However, the maximum subsistence allowances established by this title and by the Secretary of Defense may be exceeded as long as:

(1) The non-Federal source pays the full amount of the subsistence expense, as authorized by your agency; and

(2) The subsistence expense paid by the non-Federal source is comparable in value to that offered to or purchased by other meeting attendees.

(b) The maximum subsistence allowances established by the Secretary of State for travel to foreign areas may not be exceeded.

§ 304-3.12 Must I receive advance approval from my agency before I perform travel paid by a non-Federal source to attend a meeting?

Yes, you must receive advance approval from your agency before performing travel paid by a non-Federal source to attend a meeting except as provided in § 304-3.13

§ 304.3.13 After I begin travel to a meeting, what should I do if a non-Federal source offers to pay for one or more of my travel expenses without my or my agency's prior knowledge?

(a) If your agency has already authorized acceptance of payment for some of your travel expenses for that meeting from a non-Federal source, then you may accept on behalf of your agency, payment for any of your additional travel expenses from the same non-Federal source as long as:

(1) The expenses paid or provided in kind are comparable in value to those offered to or purchased by other similarly situated meeting attendees; and

(2) Your agency did not decline to accept payment for those particular expenses in advance of your travel.

(b) If your agency did not authorize acceptance of any payment from the non-Federal-source prior to your travel, then:

(1) You may accept, on behalf of your agency, payment from the non-Federal source for:

(i) Only the types of travel expenses that are authorized by your travel authorization (i.e., meals, lodging, transportation, but not recreation or other personal expenses); and

(ii) Only travel expenses that are within the maximum allowances stated on your travel authorization (i.e., if your travel authorization states that you are authorized to incur lodging expenses up to \$100 per night, you may not accept payment from the non-Federal source for a \$200 per night hotel room); and

(2) You must request your agency's authorization for acceptance from the non-Federal source within 7 working days after your trip ends; and

(3) If your agency does not authorize acceptance from the non-Federal source, your agency must either:

(i) Reimburse the non-Federal source for the reasonable approximation of the market value of the benefit provided,

not to exceed the maximum allowances stated on your travel authorization; or

(ii) Require you to reimburse the non-Federal source that amount and allow you to claim that amount on your travel claim for the trip; and

(4) If you accept payment for a travel expense that exceeds the maximum allowances stated in your travel authorization, you may be subject to the penalties specified in § 304-3.17.

§ 304-3.14 May a non-Federal source pay for my spouse to accompany me to a meeting?

Yes, a non-Federal source may pay for your spouse to accompany you when it is in the interest of and authorized in advance by your agency. All limitations and requirements of this part apply to the acceptance of payment from a non-Federal source for travel expenses and/or agency reimbursement of travel expenses for your accompanying spouse. Your agency may determine that your spouse's presence at an event is in the interest of the agency if your spouse will:

(a) Support the mission of your agency or substantially assist you in carrying out your official duties; or

(b) Attend a ceremony at which you will receive an award or honorary degree.

§ 304-3.15 Am I required to submit a report of payment received from a non-Federal source by my agency?

Yes, you must provide your agency the information it needs to complete Standard Form 326 (SF 326), Semiannual Report of Payments Accepted From a Non-Federal Source (see 304-6.5 of this chapter). As long as payment from the non-Federal source is made to or on behalf of your agency, you are not required to report it as a gift on any confidential or public disclosure report you are personally required to file pursuant to law or Office of Government Ethics (OGE) regulations (5 CFR part 2635). However, you may be required to report any payment that you or your accompanying spouse receive on your own behalf, rather than the agency's behalf, pursuant to other reporting requirements such as those imposed by the Ethics in Government Act of 1978 (Public Law 95-521, 92 Stat. 1824) as amended, including reporting the payment on your financial disclosure report. You may confirm your reporting requirements with your agency ethics counselor.

Subpart B—Reimbursement Claims**§ 304-3.16 What must I submit to my agency for reimbursement when a non-Federal source pays all or part of my travel expenses to attend a meeting?**

You must submit a travel claim listing all allowable travel expenses that you incurred which were not paid by a non-Federal source. Do not claim travel expenses that were furnished in kind by a non-Federal source. Your reimbursement is limited to the types of expenses authorized in chapter 301 of this title or analogous provisions of the Joint Travel Regulations or Foreign Affairs Manual. Reimbursement from your agency for expenses will not in any case exceed the amount of the expenses you incur. Such reimbursement will also adhere to established regulatory limitations except where your agency accepts payments or benefits under §§ 304-5.5 or 304-5.6 of this chapter.

Subpart C—Penalties**§ 304-3.17 What happens if I accept a payment from a non-Federal source that is in violation of this part?**

If you accept payment from a non-Federal source in violation of this part:

(a) You may be required, in addition to any other penalty provided by law and applicable regulations, to pay the general fund of the Treasury, an amount equal to any payment you accepted; and

(b) In the case of reimbursement under paragraph (a) of this section, you will not be entitled to any reimbursement from the Government for your travel expenses that the payment was intended to cover.

Subpart D—Relation to Other Authorities**§ 304-3.18 Are there other situations when I may accept payment from a non-Federal source for my travel expenses?**

Yes, you may also accept payment of travel expenses from a non-Federal source under the following authorities, in addition to this part:

(a) Under 5 U.S.C. 4111 for acceptance of contributions, awards, and other payments from tax-exempt entities for non-Government sponsored training or meetings (see regulations issued by the Office of Personnel Management at 5 CFR part 410);

(b) Under 5 U.S.C. 7342 for receipt and disposition of foreign gifts (See regulations issued by the General Services Administration at 41 CFR part 102-42);

(c) Under 5 U.S.C. 7324(b) when payment is for travel to be performed for a partisan rather than an official purpose by an employee who is exempt

from the Hatch Act (5 U.S.C. 7321-7326); or

(d) Pursuant to the applicable standards of ethical conduct regulations concerning personal acceptance of gifts (for example, under 5 CFR 2635.204(a) which authorizes executive branch employees to accept an unsolicited gift with a market value of \$20 or less per source per occasion).

SUBCHAPTER B—AGENCY REQUIREMENTS**PART 304-4—AUTHORITY**

Sec.

304-4.1 To whom do the pronouns “we”, “you”, and their variants refer throughout this part?

304-4.2 What is the purpose of this part?

304-4.3 Under what other authority may we accept payment for travel expenses from a non-Federal source?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304-4.1 To whom do the pronouns “we”, “you”, and their variants refer throughout this part?

Use of pronouns “we”, “you”, and their variants throughout this part refers to the agency.

§ 304-4.2 What is the purpose of this part?

The purpose of this part is to establish Governmentwide policy and guidance for acceptance by a Federal agency of payment for travel expenses from a non-Federal source for employees to attend meetings under 31 U.S.C. 1353. It describes how such payments may be accepted.

Note to § 304-4.2: This is the only authority under which you may accept (or authorize your employees to accept on your behalf) payment from a non-Federal source for travel expenses to attend a meeting.

§ 304-4.3 Under what other authority may we accept payment for travel expenses from a non-Federal source?

You may accept payment for travel expenses other than to a meeting from a non-Federal source under the following authorities, in addition to this part:

(a) Under 5 U.S.C. 7342 for receipt and disposition of foreign gifts (see 41 CFR part 102-42 for applicable regulations);

(b) Under 5 U.S.C. 7324(b) when payment is for travel to be performed for a partisan rather than an official purpose in the case of an employee who is exempt from the Hatch Act (5 U.S.C. 7321-7326); or

(c) Pursuant to an agency gift statute or similar statutory authority where payment is for attendance at or participation in an event (other than a

meeting) relating to the official duties of the employee.

PART 304-5—AGENCY RESPONSIBILITIES

Sec.

304-5.1 May we limit the amount of payment and/or benefit that we accept from a non-Federal source?

304-5.2 Who must approve acceptance of payment from a non-Federal source for travel expenses to a meeting?

304-5.3 What does our approving official need to consider before authorizing acceptance of payment from a non-Federal source for travel expenses for a meeting?

304-5.4 When may we accept payment from a non-Federal source for travel to a meeting or authorize an employee to accept payment on our behalf?

304-5.5 May we authorize an employee to exceed the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations where we have authorized acceptance of payment from a non-Federal source for such allowances?

304-5.6 May we authorize an employee to travel by premium other than first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?

304-5.7 May we authorize an employee to travel by first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?

304-5.8 May we authorize acceptance of payment from more than one non-Federal source for a single trip?

304-5.9 Must payments received for travel expenses be reported on employee's confidential or public disclosure reports?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304-5.1 May we limit the amount of payment and/or benefit that we accept from a non-Federal source?

Yes, you may limit the amount of payment or benefit that you accept from a non-Federal source. For example, you may authorize an employee to attend only a portion of a meeting and limit acceptance of payment accordingly. You may also limit acceptance of payment of any type of benefit offered by a non-Federal source.

§ 304-5.2 Who must approve acceptance of payment from a non-Federal source for travel expenses to a meeting?

An official at the highest practical administrative level who can evaluate the requirements in § 304-5.3, must approve acceptance of such payments.

§ 304-5.3 What does our approving official need to consider before authorizing acceptance of payment from a non-Federal source for travel expenses for a meeting?

(a) Before authorizing acceptance of payment, the approving official must

determine that acceptance of the payment under the circumstances would not cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of agency programs or operations. The approving official must be guided by all relevant considerations, including but not limited to the:

- (1) Identity of the non-Federal source;
- (2) Purpose of the meeting;
- (3) Identity of other expected participants;

(4) Nature and sensitivity of any matter pending at the agency which may affect the interest of the non-Federal source;

(5) Significance of the employee's role in any such matter; and

(6) Monetary value and character of the travel benefits offered by the non-Federal source.

(b) The agency official may find that, while acceptance from the non-Federal source is permissible, it is in the interest of the agency to qualify acceptance of the offered payment by, for example, authorizing attendance at only a portion of the event or limiting the type or character of benefits that may be accepted.

§ 304-5.4 When may we accept payment from a non-Federal source for travel to a meeting or authorize an employee to accept payment on our behalf?

You may accept payment from a non-Federal source or authorize an employee and/or the employee's spouse to accept payment on your behalf only when:

(a) You have issued the employee (and/or the employee's spouse, when applicable) a travel authorization before the travel begins;

(b) You have determined that the travel is in the interest of the Government;

(c) The travel relates to the employee's official duties; and

(d) The non-Federal source is not disqualified due to a conflict of interest under § 304-5.3.

§ 304-5.5 May we authorize an employee to exceed the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations where we have authorized acceptance of payment from a non-Federal source for such allowances?

(a) Generally, yes. Subsistence allowances are usually limited to the maximum subsistence allowances (per diem or actual expense) prescribed in chapter 301 of this title for travel in CONUS, by the Secretary of Defense for travel in non-foreign areas, and by the Secretary of State for travel in foreign areas. However, the maximum subsistence allowances established by

this title and by the Secretary of Defense may be exceeded as long as:

(1) The non-Federal source pays the full amount of the subsistence expenses, at issue; and

(2) The subsistence expense paid by the non-Federal source is comparable in value to that offered to or purchased by meeting attendees.

(b) The maximum subsistence allowances prescribed by the Secretary of State for travel to foreign areas may not be exceeded.

§ 304-5.6 May we authorize an employee to travel by premium other than first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?

Yes, you may authorize an employee to travel by premium other than first-class common carrier accommodations as long as the:

(a) Non-Federal source makes full payment for such transportation services in advance of travel; and

(b) Transportation accommodations furnished are comparable in value to those offered to, or purchased by, other similarly situated meeting attendees.

§ 304-5.7 May we authorize an employee to travel by first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?

Generally, no; however, you may authorize an employee to travel by first-class common carrier accommodations if the:

(a) Travel meets at least one of the conditions in §§ 301-10.123, 301-10.162 and 301-10.183 of this title;

(b) Non-Federal source makes full payment for such transportation services in advance of travel; and

(c) Transportation accommodations furnished are comparable in value to those offered to, or purchased by, other similarly situated meeting attendees.

§ 304-5.8 May we authorize acceptance of payment from more than one non-Federal source for a single trip?

Yes, you may accept payment from more than one non-Federal source for a single trip, as long as the total of such payments do not exceed the total cost of the trip.

§ 304-5.9 Must payments received for travel expenses be reported on employee's confidential or public disclosure reports?

Generally, no; payments received by an employee (and/or the accompanying spouse, when applicable) for travel expenses to a meeting on behalf of the agency under this part are not required to be reported on confidential or public disclosure reports that an employee is otherwise required to file (See 5 U.S.C.

2634). Acceptance of payments by an employee and/or accompanying spouse on behalf of himself/herself, rather than the agency, may be subject to other reporting requirements such as those required by the Ethics in Government Act of 1978 (see 5 U.S.C. app 101-111 and 5 CFR part 2634), including reporting the payment on the employee's financial disclosure report.

PART 304-6—PAYMENT GUIDELINES

Subpart A—General

Sec.

302-6.1 May we accept a monetary payment in the form of cash from a non-Federal source?

304-6.2 What should we do if a non-Federal source does not pay the full cost for expenses that an employee will incur during travel?

304-6.3 What happens if an employee accepts payment from a non-Federal source that is in violation of this part?

Subpart B—Reports

304-6.4 What form must we use to report payments received by the agency from non-Federal sources?

304-6.5 What guidelines must we follow when using the SF 326?

Subpart C—Valuation

304-6.6 How do we determine the value of payments in kind that are to be reported on SF 326?

304-6.7 Must we report to the Office of Government Ethics (OGE) any information that is protected from disclosure by statute?

304-6.8 Will the reports be made available for public inspection?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

Subpart A—General

§ 302-6.1 May we accept a monetary payment in the form of cash from a non-Federal source?

No, you may not accept a monetary payment in the form of cash from a non-Federal source. Monetary payment(s) received from a non-Federal source must be in the form of a check or similar instrument made payable to the agency.

§ 304-6.2 What should we do if a non-Federal source does not pay the full cost for expenses that an employee will incur during travel?

If you determine in advance of the employee's travel that payment from a non-Federal source will cover some but not all of the employee's allowable travel and subsistence expenses you should state on the employee's travel authorization that the employee will be reimbursed the difference between the full allowances and the payment from the non-Federal source. See chapter 301 of this title, 6 Foreign Affairs Manual, Part 100, or the Joint Travel Regulations

(JTR), Chapter 4, Parts L and Q, as applicable to determine the applicable maximum allowances.

§ 304-6.3 What happens if an employee accepts payment from a non-Federal source that is in violation of this part?

If an employee accepts payment from a non-Federal source in violation of this part, the employee:

(a) May be required in addition to any penalty provided by law and applicable regulations, to pay the general fund of the Treasury, an amount equal to the payment so accepted; and

(b) Shall not be entitled to any reimbursement from the Government for such expenses.

Subpart B—Reports

§ 304-6.4 What form must we use to report payments received by the agency from non-Federal sources?

Your agency head or designee must submit Standard Form 326 (SF 326), Semiannual Report of Payments Accepted From a Non-Federal Source, to report payments received from non-Federal sources. This applies to all payments that are more than \$250 per event for an employee and accompanying spouse. For purposes of the \$250 threshold, payments for an employee and accompanying spouse shall be aggregated.

§ 304-6.5 What guidelines must we follow when using the SF 326?

When completing the SF 326:

(a) You must complete each block on SF 326 with no exception, which includes, but is not limited to:

(1) The name and title of each Federal employee;

(2) The name and other required information for any accompanying spouse, indicating which employee the spouse accompanies;

(3) The benefit received for each event. Benefits accepted as part of a conference or training fee need not be reported separately.

(b) You must also:

(1) Submit the SF 326 no later than May 31 for payments received from the preceding October 1 through March 31;

(2) Submit a SF 326 no later than November 30 for payments received from the preceding April 1 through September 30; and

(c) Submit the SF 326 including negative reports, to:

Director of the Office of Government Ethics (OGE), 1201 New York Avenue, NW., Suite 500, Washington, DC 20005-3917

Subpart C—Valuation

§ 304-6.6 How do we determine the value of payments in kind that are to be reported on SF 326?

The following should be used in the determination of the value of payments in kind for reporting on SF 326:

(a) For conference, training, or similar fees waived or paid by a non-Federal source, you must report the amount charged other participants.

(b) For transportation or lodging, you must report the cost that the non-Federal source paid or usually would have been charged for such event.

(c) For meals or other benefits that are not provided as part of the transportation, lodging, or a conference, training or similar fee, you must report the cost to the non-Federal source or provide a reasonable approximation of the market value of the benefit.

(d) For chartered, corporate or other private aircraft:

(1) When common carrier is available, you must report the first-class rate that would have been charged by a commercial air carrier at the time the event took place.

(2) When a common carrier is not available, you must report the cost of chartering a similar aircraft using a commercially available service.

(e) Lodging where no commercial rate is available: You must report the maximum lodging rate established by GSA for CONUS, Secretary of Defense for non-foreign areas and the Secretary of State for foreign areas. These rates are available on the internet at the GSA website <http://policyworks.gov/perdiem>, with links to the non-foreign and foreign area rates.

§ 304-6.7 Must we report to the Office of Government Ethics (OGE) any information that is protected from disclosure by statute?

No, however, you must make available upon the request of a properly cleared OGE official any information that is protected from disclosure by statute.

§ 304-6.8 Will the reports be made available for public inspection?

Yes, OGE must make any report filed by an agency under this part (that is not protected from disclosure by statute) available for public inspection and copying on the later of the following two dates:

(a) Within 30 days after the applicable due date; or

(b) Within 30 days after the date OGE actually receives the report.

SUBCHAPTER C—ACCEPTANCE OF PAYMENTS FOR TRAINING

PART 304-7—AUTHORITY/ APPLICABILITY

Sec.

304-7.1 What is the purpose of this subchapter?

304-7.2 To whom does this subchapter apply?

304-7.3 Who is exempt from this subchapter?

Authority: 5 U.S.C. 4111(b); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

§ 304-7.1 What is the purpose of this subchapter?

The purpose of this subchapter is to provide for reductions in per diem and other travel reimbursement when employees receive contributions, awards and other payments from non-Federal sources for training in non-Government facilities and attendance at meetings under 5 U.S.C. 4111.

§ 304-7.2 To whom does this subchapter apply?

This subchapter applies to:

(a) Civilian officers and employees of:

- (1) Executive departments as defined in 5 U.S.C. 101;

- (2) Independent establishments as defined in 5 U.S.C. 104;

- (3) Government corporations subject to chapter 91 of title 31 U.S.C.;

- (4) The Library of Congress;

- (5) The Government Printing Office (GPO);

- (6) The government of the District of Columbia; and

- (b) Commissioned officers of the National Oceanic and Atmospheric Administration.

§ 304-7.3 Who is exempt from this subchapter?

The following, under 5 U.S.C. 4102 and the implementing regulation at 5 CFR 410.101(b), are exempt from this subchapter:

(a) A corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(b) The Tennessee Valley Authority;

(c) An individual (except a commissioned officer of the National Oceanic and Atmospheric Administration) who is a member of a uniformed service during a period in which he is entitled to pay under 37 U.S.C. 204; and

(d) The U.S. Postal Service, Postal Rate Commission and their employees.

PART 304-8—DEFINITIONS

Authority: 5 U.S.C. 4111(b); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

§ 304-8.1 For the purpose of this subchapter, who is a donor?

A donor, for the purpose of this subchapter, is an non-profit charitable organization described by 26 U.S.C. 501(c)(3), that is exempt from taxation under 26 U.S.C. 501(a).

PART 304-9—CONTRIBUTIONS AND AWARDS

Sec.

304-9.1 May we allow an employee to accept contributions and awards pertaining to training and payments incident to attendance at meetings under this subchapter?

304-9.2 May we pay an employee for expenses that are fully reimbursed by a donor for training in a non-Government facility, or travel expenses incident to attendance at a meeting?

304-9.3 May we reimburse an employee for training expenses that are not fully paid by a donor?

304-9.4 What if the employee is compensated by a donor and by us for the same expenses?

304-9.5 Must we reduce an employee's reimbursement when a donor pays for items for which we are not authorized to reimburse the employee?

304-9.6 Must we obtain data from employees or donors for all expenses received?

Authority: 5 U.S.C. 4111(b); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

§ 304-9.1 May we allow an employee to accept contributions and awards pertaining to training and payments incident to attendance at meetings under this subchapter?

Yes, you may allow an employee to accept contributions and awards pertaining to training and payments incident to attendance at meetings when you specifically authorize them to do so in accordance with OPM guidelines issued under section 401(b) of Executive Order 11348 (see 5 CFR part 410) and section 303(j) of Executive Order 11348 (3 CFR, 1966-1970 Comp., p. 639). The OPM guidelines may be found at 5 CFR part 410.

§ 304-9.2 May we pay an employee for expenses that are fully reimbursed by a donor for training in a non-Government facility, or travel expenses incident to attendance at a meeting?

No, you may not reimburse an employee for expenses that are fully reimbursed by a donor for training in a non-Government facility, or travel expenses incident to attendance at a meeting.

§ 304-9.3 May we reimburse an employee for training expenses that are not fully paid by a donor?

Yes, you may reimburse an employee for training expenses that are not fully

paid by a donor an amount considered sufficient to cover the balance of expenses to the extent authorized by law and regulation, including 5 U.S.C. 4109 and 5 U.S.C. 4110.

§ 304-9.4 What if the employee is compensated by a donor and by us for the same expenses?

If you reimburse an employee for expenses that are also paid by a donor, you must establish and carry out policy in accordance with 5 U.S.C. 5514 to recover any excess amount paid to the employee.

§ 304-9.5 Must we reduce an employee's reimbursement when a donor pays for items for which we are not authorized to reimburse the employee?

No, when a donor pays for travel expenses that the Government is not authorized to pay (such as travel expenses for an employee's family) no reduction in payment is required.

§ 304-9.6 Must we obtain data from employees or donors for all expenses received?

Yes, you must set agency policy to ensure collection of expense data in such detail as you deem necessary to carry out this part.

Dated: February 26, 2001.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

[FR Doc. 01-11244 Filed 5-3-01; 8:45 am]

BILLING CODE 6820-34-U

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 01-1021; MM Docket No. 01-95; RM-10093]

Radio Broadcasting Services; Naches, Sunnyside and Benton City, Washington

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition for rule making filed by Butterfield Broadcasting Corporation ("petitioner") licensee of Stations KZTA(FM), Naches, Washington and KZTB(FM), Sunnyside, Washington. Petitioner proposes to substitute Channel 245C2 for 245A at Naches, and to reallocate Channel 244A from Sunnyside to Benton City, Washington, as the community's first local transmission service. Channel 245C2 can be allotted at Naches at petitioner's requested site at coordinates

NL 46-36-02 and WL 120-56-06 and Channel 244A can be reallocated from Sunnyside to Benton City in compliance with the Commission's minimum distance separation requirements at petitioner's requested site, at coordinates NL 46-14-48 and 120-25-40.

DATES: Comments must be filed on or before June 11, 2001, and reply comments on or before June 26, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Peter Gutmann, Esq., Pepper and Corazzini, 1776 K Street, NW., Suite 200, Washington, DC 20006. (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT:

Victoria M. McCauley, Mass Media Bureau, and (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-95 adopted April 11, 2001 and released April 20, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows: