

agricultural commodities and in processed commodities, when such residues result from the use of decanoic acid as an antimicrobial treatment in solutions containing a diluted end-use concentration of decanoic acid (up to 170 ppm per application) on food contact surfaces such as equipment, pipelines, tanks, vats, fillers, evaporators, pasteurizers and aseptic equipment in restaurants, food service operations, dairies, breweries, wineries, beverage and food processing plants.

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## DEPARTMENT OF ENERGY

### 41 CFR Part 109-6

RIN 1991-AB61

#### Official Use of Government Passenger Carriers Between Residence and Place of Employment

**ACTION:** Final rule.

**AGENCY:** Office of Management, Budget and Evaluation, Department of Energy (DOE).

**SUMMARY:** The Department of Energy publishes a final rule to remove from the DOE Property Management Regulation (DOE-PMR) certain overly broad restrictions regarding the use of government passenger carriers between an employee's residence and place of employment, and to update references to the Federal Management Regulation.

**EFFECTIVE DATE:** This rule is effective February 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. Michelsen, Director, Office of Resource Management, Office of Procurement and Assistance Management, Department of Energy, (202) 586-1368, 1000 Independence Avenue, SW., Washington, DC 20585.

**SUPPLEMENTARY INFORMATION:** The DOE-PMR at 41 CFR 109-6.4 sets forth rules that apply to the use of Government passenger carriers between a DOE employee's residence and place of employment. Section 109-6.402(b) restricts such use to the Secretary of Energy and persons "engaged in field work," as determined by the Secretary. DOE today is eliminating this restriction from the DOE-PMR because it prevents certain uses by employees of Government passenger carriers between residence and place of employment that are authorized by statute and the implementing Federal Management Regulation. Other uses authorized by 31 U.S.C. 1344 include, but are not limited to: use by an officer or employee with

regard to which the Secretary, has determined, that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business; use by a single principal deputy to the Secretary if the Secretary determines appropriate; and use, when approved by the Secretary, by officers or employees when essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties. The rule being promulgated today harmonizes the DOE-PMR with the relevant statutory authority and allows Government vehicles to be used in the manner authorized by the statute. In addition, this rule updates DOE-PMR, 41 CFR 109-6.4, by replacing obsolete references to sections of the Federal Management Regulation which was revised in 2000 (65 FR 54966, September 12, 2000).

This rule is being promulgated as a final rule, without providing for a public comment period, or a 30 day effective date because it addresses a matter relating to agency management or personnel or to public property and therefore is not subject to the notice and comment requirements of the Administrative Procedures Act. *See* 5 U.S.C. 553(a).

#### Regulatory Review

##### A. Review Under Executive Order 12866

This final rule has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this final rule is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

##### B. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Agency to assess the effects of Federal regulatory action on State, local, and tribal governments and the private sector. DOE has determined that today's regulatory action would not impose a Federal mandate on State, local, or tribal governments or on the private sector.

##### C. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice

Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive Agencies to review regulations in light of applicable standards in section 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

##### D. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, Public Law 96-354, requires preparation of a regulatory flexibility analysis for any rule which is subject to notice and comment rulemaking requirements. As noted above, this rule addresses a matter relating to agency management or personnel or to public property and maybe is not subject to the notice and comment requirements of the Administrative Procedures Act.

##### E. Review Under Paperwork Reduction Act

No new information collection requirements subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are imposed by today's regulatory action.

##### F. Review Under the National Environmental Policy Act

This rule eliminates certain restrictions on the official use of government passenger carriers by DOE employees between residence and place of employment. Implementation of this rule will not result in environmental

impacts because minimal additional use of vehicles is anticipated. DOE has therefore determined that this rule is covered under the Categorical Exclusion found at paragraph A.5 of Appendix A to subpart D, 10 CFR part 1021, which applies to rulemakings amending existing regulations that do not change the environmental effect of the regulations being amended.

#### G. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this final rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### H. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

#### J. Review Under Executive Order 13084

Under Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments), DOE may not issue a discretionary rule that significantly or uniquely affects Indian tribal governments and imposes substantial direct compliance costs. This final rule would not have such effects. Accordingly, Executive Order 13084 does not apply to this rulemaking.

#### K. Review Under Executive Order 13045

Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks) contains special requirements that apply to certain rulemakings that are economically significant under Executive Order 12866. This final rule is not economically significant. Accordingly, Executive Order 13045 does not apply to this rulemaking.

#### List of Subjects in 41 CFR Part 109-6

Government property management, Motor vehicles.

Issued in Washington, DC, on February 13, 2003.

#### Richard H. Hopf,

Director, Office of Procurement and Assistance Management, Office of Management, Budget and Evaluation, Department of Energy.

#### Robert C. Braden, Director,

Office of Procurement and Assistance Management, National Nuclear Security Administration.

For the reasons set forth above, DOE amends 41 CFR Chapter 109 as follows:

#### PART 109-6—MISCELLANEOUS REGULATIONS

1. The authority citation for part 109-6 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat 390 (40 U.S.C. 486(c)); 31 U.S.C. 1344(e)(1).

#### Subpart 109-6.4—Official Use of Government Passenger Carriers Between Residence and Place of Employment

##### § 109-6.400 [Amended]

2. In 109-6.400(a) remove the reference “41 CFR 101-6.4,” and add in its place “41 CFR part 102-5.”

##### § 109-6.402 [Amended]

3. Section 109-6.402 is amended as follows:

a. In paragraph (a), remove the second sentence.

b. In paragraph (a), remove the reference “41 CFR 101-6.4,” and add in its place “41 CFR part 102-5.”

c. Paragraph (b) is removed.

d. Paragraph (c) is redesignated as paragraph (b).

e. In redesignated paragraph (b), the reference “41 CFR 101-6.402(f)” is removed and “41 CFR 102-5.105” is added in its place.

f. Paragraph (d) is redesignated as paragraph (c).

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#### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Chapter 302

[FTR Case 2003-302; FTR Amendment 2003-01]

RIN 3090-AH78

#### Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables (2003 Update)

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

**ACTION:** Final rule.

**SUMMARY:** The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates. The Federal, State, and Puerto Rico tax tables contained in this rule are for calculating the 2003 RIT allowance to be paid to relocating Federal employees.

**DATES:** This final rule is effective January 1, 2003, and applies for RIT allowance payments made on or after January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 208-7312, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Calvin L. Pittman, Office of Governmentwide Policy, Travel Management Policy, at (202) 501-1538. Please cite FTR case 2003-302, FTR Amendment 2003-01.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 5724b of title 5, United States Code, provides for reimbursement of substantially all Federal, State, and local income taxes incurred by a transferred Federal employee on taxable moving expense reimbursements. Policies and procedures for the calculation and payment of a RIT allowance are contained in the Federal Travel Regulation (41 CFR part 302-17). The