

HQ MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND

TR-12 Fuel Related Rate Adjustment Policy

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This version of Policy No. TR-12 supersedes all previous versions of TR-12, except to the extent that a previous version is explicitly referenced as the basis for payment in an agreement with SDDC.

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MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND (SDDC)

TRANSPORTATION AND TRAVEL

POLICY NO. TR-12

SUBJECT: Fuel Related Rate Adjustment (FRA) Policy

This version of Policy No. TR-12 supersedes all previous versions of TR-12, except to the extent that a previous version is explicitly referenced as the basis for payment in an agreement with SDDC.

A. Policy

1. The following FRA policy applies to commercial Transportation Service Provider (TSP) freight and personal property movements within the United States. This policy does not include FRA for any mileage traveled through Canada for shipments traveling between Alaska and the lower 48 states. This policy provides the transportation industry, including individual TSP(s), economic adjustment and reasonable relief for unanticipated increases in diesel fuel prices. TSP(s) are urged to consider anticipated variation in fuel prices when submitting or supplementing rates during rate filing and/or bid submission periods.

2. FRA for freight-all-kinds (FAK) and transportation protective service (TPS) truckload (TL) shipments will be calculated using a mileage-based formula. The current percentage of line-haul formula will remain in effect for less-than-truckload (LTL) and Personal Property (PP) shipments. The percentage of line-haul increment factor will increase from \$.10 to \$.13. The baseline will remain at \$2.50 (**Annex A**). At the discretion of SDDC, FRA may be paid for negotiated shipments based on the terms of the negotiation.

3. The above changes will not apply to the Defense Transportation Coordination (DTC) contract or the Protective Security Service Freight Contract (PSSFC) for Defense Distribution Center, Warner Robins, GA (DDWG). Shipments for DTC and PSSFC DDWG will be calculated using a percentage of line haul formula with \$.10 increments. DTC baseline will remain at \$1.30 (**Annex B**) and PSSFC DDWG will remain at \$2.50 (**Annex C**).

4. SDDC will not pay FRA on "Spot Bid" or One Time Only (OTO) personal property movements, regardless of mode. SDDC will not pay a FRA for any type of rail shipment. SDDC will not pay FRA on commercial security escort vehicles (CSEV).

5. Written provision will be made in SDDC regulations, Tariff, and solicited tender agreements for FRAs. At the sole discretion of the appropriate Contracting Officer, this policy may be applied to Federal Acquisitions Regulation (FAR) contracts. SDDC has no obligation whatsoever to apply this policy to FAR contracts other than where the appropriate Contracting Officer determines that it shall apply.

B. Effective Date:

1. Changes to PP will become effective on 15 May 2013. The mileage-based formula and the increment change will take effect on 1 June 2013 for FAK and TPS. No changes made to DTC or PSSFC FRA effective dates.

C. Expiration Date: This policy is in effect until superseded or withdrawn in writing.

D. Definitions: The following definitions shall apply to terms used in this regulation.

1. Fuel Cost: The national average diesel fuel price published by the Department of Energy (DOE) Energy Information Administration (EIA). The diesel fuel prices published by the EIA may be found via the following sources:

- EIA Website: <http://www.eia.gov/>
- EIA Weekly Petroleum Status Report
- EIA Hotline: (202) 586-6966

2. Pick up date: The date listed on the Bill of Lading (BOL) indicating the calendar day on which the TSP takes possession of a given shipment.

3. Spot Bid/OTO: A flexible and responsive process that posts shipments for bid by qualified TSP(s) via the Internet/Defense Personal Property Program. It is an acquisition alternative for procuring transportation services for unique shipments by all modes. All submitted bids reflect an all-inclusive expense representing line haul, accessorial charges, fuel, any additional expenses anticipated to support that particular shipment. FRA will not be paid on these types of shipments.

E. Application: SDDC shall pay a FRA in accordance with this policy on the following types of movements.

1. Personal Property Program:

a. Pickup occurs on or after 15 May 2013 for the domestic line haul portion of international movements and for the line haul portion of domestic interstate and intrastate movements including Alaska and Hawaii.

b. The transportation charges applicable on domestic and international storage-in-transit shipments when such shipments are delivered or removed from the domestic storage-in transit warehouse.

2. Domestic Freight Program:

a. The movement involves the domestic line haul portion of the TSP rate including Alaska (does not include any mileage traveled through Canada for shipments traveling between Alaska and the lower 48 states) and Hawaii.

F. Determination of Adjustment Amount:

1. FAK/TPS TL Formula: (Miles/6) * (EIA rate – baseline)

2. FAK/TPS/PP LTL Formula: FRA shall be paid based on a percentage of the line-haul rate. The line-haul rate does not include accessorials unless specifically called for in the freight tariff, tender, or solicitation on which the FRA is based. SDDC shall pay the TSP 1% (one percent) of the line-haul rate, not including accessorial charges, for every increment of \$.13 (thirteen cents) by which the fuel cost exceeds \$2.50 at the time of pickup.

a. **ANNEX A:** Fuel Rate Adjustment Table (\$2.50 Baseline w/\$.13 increments)

3. DTC Formula: FRA shall be paid based on a percentage of the line-haul rate. The line-haul rate does not include accessorials unless specifically called for in the solicitation for the freight movement on which the FRA is based. Where the FRA applies, SDDC shall pay the TSP 1% (one percent) of the line-haul rate, not including accessorial charges, for every increment of \$.10 (ten cents) by which the fuel cost exceeds \$1.30 at the time of pickup.

a. **ANNEX B:** Fuel Rate Adjustment Table (\$1.30 Baseline)

4. PSSFC DDWG Formula: FRA shall be paid based on a percentage of the line-haul rate. The line-haul rate does not include accessorials unless specifically called for in the solicitation for the freight movement on which the FRA is based. Where the FRA applies, SDDC shall pay the TSP 1% (one percent) of the line-haul rate, not including accessorial charges, for every increment of \$.10 (ten cents) by which the fuel cost exceeds \$2.50 at the time of pickup.

a. **ANNEX C:** Fuel Rate Adjustment Table (\$2.50 Baseline)

G. Determination of Fuel Cost at Time of Shipment:

1. For applicable personal property program shipments, SDDC shall pay the FRA based on the fuel cost published on the first Monday of the month in which the shipment subject to the FRA is picked up. The fuel adjustment will automatically apply to shipments picked up on or after the 15th day of the month through the 14th day of the following month.

2. For applicable domestic freight program shipments, SDDC shall pay the FRA based on the fuel cost published on the Monday of the week in which the shipment subject to the FRA was picked up.

H. Monitoring Diesel Fuel Prices:

1. It is the responsibility of the TSP to monitor diesel fuel prices via one of the sources identified in this policy. The National Average diesel fuel price determined by the DOE, EIA will serve as the basis for determining the entitlement to a FRA. The National Average fuel price and the actual pickup date of shipment will determine if there is an entitlement to an

adjustment and the amount of the adjustment. An adjustment is not applicable to any portion of transportation in which a surcharge or any other additional payment for fuel is already in existence.

I. Billing Procedures:

1. TSP(s) will clearly show fuel price adjustments on all paper and electronic commercial freight bills, BOL, and invoices. The amount of any diesel fuel rate surcharge must be shown as a separate item on the TSP(s) invoice.

ADDRESS: Request for additional information may be sent by email to:

usarmy.scott.sddc.mbx.hq-g35-strat-analysis@mail.mil

SUBMIT ANY COMMENTS TO: Isis Green

1 Soldier Way, Building 1900W

Scott AFB, IL 62225

isis.o.green.civ@mail.mil

REGULATION FLEXIBILITY ACT

This action is not considered rulemaking within the meaning of Regulatory Flexibility Act, 5 U.S.C. 601-612.

PAPERWORK REDUCTION ACT

The Paperwork Reduction Act, 44 U.S.C. 3051 *et seq.*, does not apply because no information collection or record keeping requirements are imposed on contractors, offerors or members of the public.

ANNEX A: Fuel Related Rate Adjustment Table (\$2.50 Baseline w/\$.13 increments)

The table below demonstrates the percentage of the line-haul rate SDDC will pay at a given fuel cost given a \$2.50 baseline. Should the baseline differ at any time, the same principle applies simply with a different starting point for calculating the percent adjustment. The table ends at \$5.490, but the same principle applies to fuel costs above that dollar amount.

Thirteen Cent Increments

From	To	FRA
\$2.50 and below		0.0%
\$2.501	\$2.630	1.0%
\$2.631	\$2.760	2.0%
\$2.761	\$2.890	3.0%
\$2.891	\$3.020	4.0%
\$3.021	\$3.150	5.0%
\$3.151	\$3.280	6.0%
\$3.281	\$3.410	7.0%
\$3.411	\$3.540	8.0%
\$3.541	\$3.670	9.0%
\$3.671	\$3.800	10.0%
\$3.801	\$3.930	11.0%
\$3.931	\$4.060	12.0%
\$4.061	\$4.190	13.0%
\$4.191	\$4.320	14.0%
\$4.321	\$4.450	15.0%
\$4.451	\$4.580	16.0%
\$4.581	\$4.710	17.0%
\$4.711	\$4.840	18.0%
\$4.841	\$4.970	19.0%
\$4.971	\$5.100	20.0%
\$5.101	\$5.230	21.0%
\$5.231	\$5.360	22.0%
\$5.361	\$5.490	23.0%

For example, if the reported DOE, EIA National Average diesel fuel price is \$4.15 the TSP would be entitled to an FRA of 13% of the line-haul rate.

ANNEX B: Fuel Related Rate Adjustment Table (\$1.30 Baseline)

The table below demonstrates the percentage of the line-haul rate SDDC will pay at a given fuel cost given a \$1.30 baseline. Should the baseline differ at any time, the same principle applies simply with a different starting point for calculating the percent adjustment. The table ends at \$5.000, but the same principle applies to fuel costs above that dollar amount.

Ten Cent Increments

From	To	FRA
\$1.30 and below		0.0%
\$1.301	\$1.400	1.0%
\$1.401	\$1.500	2.0%
\$1.501	\$1.600	3.0%
\$1.601	\$1.700	4.0%
\$1.701	\$1.800	5.0%
\$1.801	\$1.900	6.0%
\$1.901	\$2.000	7.0%
\$2.001	\$2.100	8.0%
\$2.101	\$2.200	9.0%
\$2.201	\$2.300	10.0%
\$2.301	\$2.400	11.0%
\$2.401	\$2.500	12.0%
\$2.501	\$2.600	13.0%
\$2.601	\$2.700	14.0%
\$2.701	\$2.800	15.0%
\$2.801	\$2.900	16.0%
\$2.901	\$3.000	17.0%
\$3.001	\$3.100	18.0%
\$3.101	\$3.200	19.0%
\$3.201	\$3.300	20.0%
\$3.301	\$3.400	21.0%
\$3.401	\$3.500	22.0%
\$3.501	\$3.600	23.0%
\$3.601	\$3.700	24.0%
\$3.701	\$3.800	25.0%
\$3.801	\$3.900	26.0%
\$3.901	\$4.000	27.0%
\$4.001	\$4.100	28.0%
\$4.101	\$4.200	29.0%
\$4.201	\$4.300	30.0%
\$4.301	\$4.400	31.0%
\$4.401	\$4.500	32.0%
\$4.501	\$4.600	33.0%
\$4.601	\$4.700	34.0%
\$4.701	\$4.800	35.0%
\$4.801	\$4.900	36.0%
\$4.901	\$5.000	37.0%

For example, if the reported DOE, EIA National Average diesel fuel price is \$4.15 the TSP under DTC would be entitled to an FRA of 29% of the line-haul rate.

ANNEX C: Fuel Related Rate Adjustment Table (\$2.50 Baseline)

The table below demonstrates the percentage of the line-haul rate SDDC will pay at a given fuel cost given a \$2.50 baseline. Should the baseline differ at any time, the same principle applies simply with a different starting point for calculating the percent adjustment. The table ends at \$5.500, but the same principle applies to fuel costs above that dollar amount.

Ten Cent Increments

From	To	FRA
\$2.50 and below		0.0%
\$2.501	\$2.600	1.0%
\$2.601	\$2.700	2.0%
\$2.701	\$2.800	3.0%
\$2.801	\$2.900	4.0%
\$2.901	\$3.000	5.0%
\$3.001	\$3.100	6.0%
\$3.101	\$3.200	7.0%
\$3.201	\$3.300	8.0%
\$3.301	\$3.400	9.0%
\$3.401	\$3.500	10.0%
\$3.501	\$3.600	11.0%
\$3.601	\$3.700	12.0%
\$3.701	\$3.800	13.0%
\$3.801	\$3.900	14.0%
\$3.901	\$4.000	15.0%
\$4.001	\$4.100	16.0%
\$4.101	\$4.200	17.0%
\$4.201	\$4.300	18.0%
\$4.301	\$4.400	19.0%
\$4.401	\$4.500	20.0%
\$4.501	\$4.600	21.0%
\$4.601	\$4.700	22.0%
\$4.701	\$4.800	23.0%
\$4.801	\$4.900	24.0%
\$4.901	\$5.000	25.0%
\$5.001	\$5.100	26.0%
\$5.101	\$5.200	27.0%
\$5.201	\$5.300	28.0%
\$5.301	\$5.400	29.0%
\$5.401	\$5.500	30.0%

For example, if the reported DOE, EIA National Average diesel fuel price is \$4.15 the TSP would be entitled to an FRA of 17% of the line-haul rate.

ANNEX D: Pass Through Supplemental Language

Non-FAR Contracts

Item: FRA for Motor Transportation Services

- A. Section 884 of the 2009 National Defense Authorization Act requires any government paid fuel related rate adjustment, also known as, a fuel surcharge (FSC) arising from a Department of Defense (DOD) transportation contract and funded by government funds that the payment goes to the cost bearer of the fuel. The cost bearer is the person who actually incurred the cost of providing the fuel used for the motor transportation.
- B. The use of the terms motor TSP, freight forwarder, and broker in this item have the same definition as those provided in 49 U.S.C. 13102.
- C. Each TSP must provide all drivers, owner operators, motor TSP(s), freight forwarders, or brokers notice that the cost bearer who transports cargo is entitled to any FRA charge paid with government funds. The TSP must identify any shipment that is entitled to a federally funded FRA payment.
- D. The TSP has the responsibility to ensure the FRA payment goes to the cost bearer. The TSP shall insert a clause in all their transportation subcontracts and agreements with motor TSP(s), freight forwarders, or brokers who provide or arrange for motor carriage for a DOD, known as a flow-down clause, requiring the pass-through of the FRA payment to the cost bearer. Include the flow-down clause in all contract tiers. The clause will require paying the FRA to the cost bearer within thirty business days of the receipt of the FRA payment. If there is more than one cost bearer, then the TSP pays each cost bearer his or her share of the FRA payment based on the motor transportation miles provided by each cost bearer.
- E. The TSP must include and require a flow-down clause in all its contracts, subcontracts, and agreements with motor TSP(s), freight forwarders, or brokers who provide or arrange for motor carriage for DOD authorized shippers. The contracts, subcontracts, and agreements must state the TSP has the sole responsibility and duty to ensure the FRA payment goes to the cost bearer. All subcontractors and cost bearers must agree and acknowledge they have no privity of contract with the DOD or United States Government (USG) prior to accepting any shipments. The cost bearer must agree he or she has no right of legal recourse or legal standing to assert a claim against DOD or the USG for payment under 31 U.S.C. 3726. The clause will state all parties acknowledge that a BOL listing a DOD agency, military service, other USG agency, or other authorized DTS user, as the shipper, consignee, or consignor on the BOL makes the BOL a non-negotiable BOL. All parties agree they cannot delay delivery of cargo or demand the FRA payment or any other payment as a precondition for timely delivery of a shipment.

- F. If a cost bearer or their representative brings a legal action against the DOD, a military service, or other government entity for payment of the FRA, then the TSP, who had the contract with DOD or other government entity, must indemnify the DOD or other federal entity for all associated legal and other costs.
- G. TSP(s) who fail to comply with the requirements of this provision may be subject to an administrative determination to place the TSP in non-use or suspension status.

Household Goods Domestic

Item 16 Fuel Policy (excluding OTO shipments)

(16A) – FRA – Line Haul

(16B) – FRA – Delivery from Storage-in-Transit (SIT)

- A. This provision shall apply only to any Continental United States (CONUS) (including Alaska) transportation segment (excluding mileage traversed through Canada on shipments traveling between Alaska and the Lower 48 states) where a FRA applies to that segment of a shipment transported by truck.
- B. In circumstances where a TSP elects to subcontract for any portion of household goods transportation services provided by truck, the TSP shall be required to pass through any FRA paid by the government to the TSP to the person(s), corporation(s), household goods TSP(s), household goods freight forwarders, or other authorized TSP(s) that actually bear the fuel cost for any shipment(s), or any portion thereof, transported under this solicitation. TSP(s) shall insert a clause that meets the intent of this requirement in any subcontract with any motor TSP or household goods freight forwarder, or other person or entity at any tier authorized to transport household goods shipments.
- C. In no event shall this legal requirement be interpreted to provide any subcontractor lacking privity of contract with the USG with legal standing to assert a transportation claim for payment pursuant to 31 U.S.C. 3726 against SDDC, United States Transportation Command (USTRANSCOM), or the DOD due to a TSP(s) failure to insert the required clause in any subcontract, or the failure of a TSP to otherwise properly comply with the FSC pass-through requirement established by Section 884 of the 2009 National Defense Authorization Act.
- D. TSP(s) who fail to comply with the requirements of this provision may be subject to an administrative determination to place the TSP in non-use or suspension status.

NOTE: For the convenience of TSP(s), a sample provision implementing this requirement is provided herein as follows:

TSP agrees that it shall be solely responsible to pass-through and pay subcontractor any FSC for the relevant portion of truck transportation services actually performed by subcontractor for FSC sums actually paid to TSP for DOD household goods shipment(s). TSP agrees that any

FSC amount owed to subcontractor shall be paid immediately upon TSP(s) receipt of payment from DOD. TSP and subcontractor agree that in no event shall subcontractor be entitled to file a transportation claim directly with the USG, or that the subcontractor shall have a cognizable or valid transportation claim for FSC directly against the government due to failure or refusal of a TSP to pay any subcontractor any lawfully owed FSC for fuel costs actually incurred by subcontractor.

Household Goods International

Item 513 Fuel Surcharge (CONUS Including Alaska and Hawaii (excluding OTO shipments))
(513) FRA

(513A)-FRA-Line Haul

(513B) – FRA – Delivery from SIT

- A. This provision shall apply only to any inland transportation segment within CONUS (including Alaska and Hawaii) where a FRA applies to that segment of a shipment transported by truck.
- B. In circumstances where a TSP elects to subcontract for any portion of household goods transportation services provided by truck, the TSP shall be required to pass through any FRA paid by the government to the TSP to the person(s), corporation(s), household goods TSP(s), household goods freight forwarders, or other authorized TSP(s) that actually bear the fuel cost for any shipment(s), or any portion thereof, transported under this tender. TSP(s) shall insert a clause that meets the intent of this requirement in any subcontract with any motor TSP or household goods freight forwarder, or other person or entity at any tier authorized to transport household goods shipments.
- C. In no event shall this legal requirement be interpreted to provide any subcontractor lacking privity of contract with the USG with legal standing to assert a transportation claim for payment pursuant to 31 U.S.C. 3726 against SDDC, USTRANSCOM, or the DOD due to a TSP(s) failure to insert the required clause in any subcontract, or the failure of a TSP to otherwise properly comply with the FRA pass-through requirement established by Section 884 of the 2009 National Defense Authorization Act.
- D. TSP(s) who fail to comply with the requirements of this provision may be subject to an administrative determination to place the TSP in non-use or suspension status.

NOTE: For the convenience of TSP(s), a sample provision implementing this requirement is provided herein as follows:

TSP agrees that it shall be solely responsible to pass-through and pay subcontractor any FSC for the relevant portion of truck transportation services actually performed by subcontractor for FSC sums actually paid to TSP for DOD household goods shipment(s). TSP agrees that any FSC amount owed to subcontractor shall be paid immediately upon TSP's receipt of payment from

DOD. TSP and subcontractor agree that in no event shall subcontractor be entitled to file a transportation claim directly with the USG, or that the subcontractor shall have a cognizable or valid transportation claim for FSC directly against the government due to failure or refusal of a TSP to pay any subcontractor any lawfully owed FSC for fuel costs actually incurred by subcontractor.

APPENDIX A: Abbreviations

AA&E	Arms, Ammunition, and Explosives
BOL	Bill of Lading
CONUS	Continental United States
CSEV	Commercial Security Escort Vehicles
DDWG	Defense Distribution Center, Warner Robins, GA
DOD	Department of Defense
DOE	Department of Energy
DTC	Defense Transportation Coordination
EIA	Energy Information Administration
FAK	Freight All Kinds
FAR	Federal Acquisitions Regulation
FRA	Fuel-Related Rate Adjustment
FSC	Fuel Surcharge
LTL	Less Than Truckload
OTO	One-Time-Only
PP	Personal Property
PSSFC	Protective Security Service Freight Contract
SDDC	Military Surface Deployment and Distribution Command
SIT	Storage-in-Transit
TL	Truckload
TPS	Transportation Protective Service
TSP	Transportation Service Provider

APPENDIX A: Abbreviations (Cont.)

USG United States Government

USTRANSCOM United States Transportation Command