

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 301–10

[FTR Amendment 2008–01; Docket 2008–0002, Sequence 1]

RIN 3090–AI43

### Federal Travel Regulation (FTR); FTR Case 2007–307; Fly America Act; United States and European Union “Open Skies” Air Transport Agreement (U.S.-EU Open Skies Agreement)

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

**ACTION:** Proposed rule.

**SUMMARY:** The GSA is proposing to amend the Federal Travel Regulation (FTR) provisions pertaining to the use of United States flag air carriers under the provisions of the “Fly America Act.” This proposed rule would incorporate language based on the United States and European Union “Open Skies” Air Transport Agreement (U.S.-EU Open Skies Agreement).

**DATES:** Comments must be received on or before April 3, 2008.

**ADDRESSES:** Submit comments identified by FTR case 2007–307 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting “General Services Administration—All” as the agency of choice. At the “Keyword” prompt, type in the FTR case number (for example, FTR Case 2007–307) and click on the “Submit” button. You may also search for any document by clicking on the “Advanced search/document search” tab at the top of the screen, selecting from the agency field “General Services Administration—All”, and typing the FTR case number in the keyword field. Select the “Submit” button.

- *Fax:* 202–501–4067.

- *Mail:* General Services Administration, Regulatory Secretariat (VPR), Attn: Diedra Wingate, 1800 F Street, NW., Room 4035, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FTR case 2007–307 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Umeki Thorne, Office of Travel, Transportation and Asset Management

(MT), General Services Administration at (202) 208–7636 or e-mail at [umeki.thorne@gsa.gov](mailto:umeki.thorne@gsa.gov). For information pertaining to status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4035, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FTR case 2007–307.

**SUPPLEMENTARY INFORMATION:** On April 30, 2007, the United States European Union “Open Skies” Air Transport Agreement (U.S.-EU Open Skies Agreement) was signed, providing Community airlines (airlines of the European Community and its Member States) the right to transport passengers and cargo on scheduled and charter flights for U.S. Government procured transportation other than transportation obtained or funded by the Department of Defense, subject to certain conditions. Specifically, Community airlines have the right to transport passengers and cargo on scheduled and charter flights funded by the U.S. Government, including transportation provided to or for a foreign country or international or other organization without reimbursement, when the transportation is between a point in the United States and any point in a Member State or between any two points outside the United States except when:

- (1) Transportation is between points for which there is a city-pair contract fare in effect for air passenger transportation services, or

- (2) Transportation is obtained or funded by the Secretary of Defense or the Secretary of a military department.

The Federal Travel Regulation (FTR), section 301–10.135(b) (41 CFR 301–10.135(b)) includes an exception to the use of U.S. flag air carrier service when the transportation is provided under a bilateral or multilateral air transportation agreement to which the U.S. Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act. As the U.S.-EU Open Skies Agreement is such an air transportation agreement, this proposed rule would incorporate text into 41 CFR 301–10.135(b) to reflect the content of the U.S.-EU Open Skies Agreement which allows Government-funded travel on Community airlines subject to certain conditions.

The U.S.-EU Open Skies Air Transport Agreement, including the provision relating to U.S. Government procured transportation, has a provisional application date of March 30, 2008. No regulatory action is required to implement the provision

addressing U.S. Government Procured Transportation since the Agreement meets the requirements of 49 U.S.C. 40118(b), and the FTR includes a provision referencing that statutory provision at 41 CFR 301–10.135(b). GSA is issuing this proposed rule to ensure notice advising of the U.S. Government procured transportation provisions in the U.S.-EU Open Skies Agreement and the upcoming effective date, and GSA is requesting comments on the proposed rule for use in developing the final rule to be included in the FTR with the objective of making the final rule easy to apply and a readily available source of information relating to the provisions on U.S. Government procured transportation included in the Agreement. A listing of the Member States as found in the U.S.-EU Open Skies Agreement may be accessed via the Department of State’s Web site at <http://www.state.gov/e/eeb/rls/othr/2007/84475.htm>.

### B. Executive Order 12866

This proposed rule is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

### C. 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, 5 U.S.C. 601, *et seq.*, does not apply.

### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

### E. 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 to agency management and personnel.

### List of Subjects in 41 CFR Part 301–10

Government employees, Travel and transportation expenses.

Dated: December 7, 2007.

**Kevin Messner,**

*Acting Associate Administrator.*

For the reasons set forth in the preamble, it is proposed that 41 CFR

Chapter 301 be amended to read as follows:

## **PART 301—10—TRANSPORTATION ALLOWABLE**

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. 486(c); 49 U.S.C. 40118.

2. Amend § 301–10.135, by revising paragraph (b) to read as follows:

### **§ 301–10.135 When must I travel using U.S. Flag air carrier service?**

\* \* \* \* \*

(b) The transportation is provided under a bilateral or multilateral air transportation agreement to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act.

(1) *United States-European Union Open Skies Agreement:* Under this Agreement, community airlines have the right to transport passengers on scheduled and charter flights funded by the U.S. Government, including transportation provided to or for a foreign country or international or other organization without reimbursement, when the transportation is between a point in the United States and any point in a Member State or between any two points outside the United States except when:

(i) Transportation is between points for which there is a city-pair contract fare in effect for air passenger transportation services, or

(ii) Transportation is obtained or funded by the Secretary of Defense or the Secretary of a military department;

(2) A listing of the Member States as found in the U.S.-EU Open Skies Agreement may be accessed via the Department of State's Web site at <http://www.state.gov/e/eeb/rls/othr/2007/84475.htm>; or

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## **NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

### **45 CFR Part 1160**

#### **RIN 3134-AA01**

### **Technical Amendments To Reflect the New Authorization for a Domestic Indemnity Program**

**AGENCY:** Federal Council on the Arts and the Humanities.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Council on the Arts and the Humanities proposes to amend its regulations to reflect Congress' authorization of a Domestic Indemnity Program under Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110–161 (December 26, 2007). The proposed rule includes examples of exhibitions eligible for indemnification which are intended to provide further guidance to applicants considering applying for indemnification of exhibitions with domestic or foreign-owned objects.

**DATES:** Comments are invited and must be received by no later than April 3, 2008.

**ADDRESSES:** You may submit comments, identified by RIN number “3134-AA01,” using any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [gencounsel@neh.gov](mailto:gencounsel@neh.gov). Include “RIN 3134-AA01, Domestic Indemnity” in the subject line of the message.

*Fax:* (202) 606–8600.

*Mail:* Heather C. Gottry, Counsel to the Federal Council on Arts and the Humanities, 1100 Pennsylvania Avenue, NW., Room 529, Washington, DC 20506.

*Hand Delivery/Courier:* Heather C. Gottry, Counsel to the Federal Council on the Arts and the Humanities, 1100 Pennsylvania Avenue, NW., Room 529, Washington, DC 20506

*Instructions:* All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

The Federal Council on the Arts and the Humanities will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

#### **FOR FURTHER INFORMATION CONTACT:**

Heather C. Gottry, Counsel to the Federal Council on the Arts and the Humanities, 1100 Pennsylvania Avenue, NW., Room 529, Washington, DC 20506. (Phone: (202) 606–8322, facsimile (202) 606–8600, or e-mail to [gencounsel@neh.gov](mailto:gencounsel@neh.gov)). Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

#### **SUPPLEMENTARY INFORMATION:**

### **I. Background on Domestic Indemnity Program Technical Amendments**

In 1975, the United States Congress enacted the Arts and Artifacts Indemnity Act, 20 U.S.C. Sections 971–977, as amended, which established the Arts and Artifacts Indemnity Program administered by the Federal Council on the Arts and the Humanities (Federal Council). The Federal Council is comprised of the heads of nineteen agencies and was created by Congress, among other things, to coordinate the policies and operations of the National Endowments for the Arts and the Humanities, and the Institute of Museum Services, including the joint support of activities (20 U.S.C. 971).

Under the Arts and Artifacts Indemnity Program, the United States Government guarantees to pay claims for loss or damage, subject to certain limitations, arising from exhibitions of foreign and domestic-owned objects determined by the Federal Council to be of educational, cultural, historical or scientific value. The Arts and Artifacts Indemnity Program is administered by the Museum Program at the National Endowment for the Arts, on behalf of the Federal Council, per “Indemnities Under the Arts and Artifacts Act” regulations (hereinafter “the Regulations”), which are set forth at 45 CFR part 1160.

Since 1975, the Regulations have been promulgated and amended by the Federal Council pursuant to the express and implied rulemaking authorities granted by Congress to make and amend rules needed for the effective administration of the Indemnity Program. Among other things, Congress expressly granted the Federal Council authorities to establish the terms and conditions of indemnity agreements; to set application procedures; and to establish claims' adjustment procedures. (20 U.S.C. 971(a)(2), 973(a), 975(a). In 1995, the Federal Council amended the Regulations to permit the indemnification of domestic-owned objects on exhibition in the United States when they are part of international exhibitions, so long as the foreign loans were integral to the exhibition as a whole.

On December 26, 2007, through Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110–161, the Arts and Artifacts Indemnity Act was amended in part to expand coverage of the Arts and Artifacts Indemnity program to up to \$5,000,000,000 at any one time for domestic exhibitions. (20 U.S.C. 974(b)). The Federal Council proposes to make