

Federal Management Regulation

§ 102-5.30

§ 102-5.10 What does this part cover?

This part covers the use of Government passenger carriers to transport employees between their homes and places of work.

§ 102-5.15 Who is covered by this part?

This part covers Federal agency employees in the executive, judicial, and legislative branches of the Government, with the exception of employees of the Senate, House of Representatives, Architect of the Capitol, and government of the District of Columbia.

§ 102-5.20 Who is not covered by this part?

This part does not cover:

- (a) Employees who are on official travel (TDY); or
- (b) Employees who are on permanent change of station (PCS) travel; or
- (c) Employees who are essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties when designated in writing as such by their agency head.

§ 102-5.25 What additional guidance concerning home-to-work transportation should Federal agencies issue?

Each Federal agency using Government passenger carriers to provide home-to-work transportation for employees who are essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties should issue guidance concerning such use.

§ 102-5.30 What definitions apply to this part?

The following definitions apply to this part:

Agency head means the highest official of a Federal agency.

Clear and present danger means highly unusual circumstances that present a threat to the physical safety of the employee or their property when the danger is:

- (1) Real; and
- (2) Immediate or imminent, not merely potential; and

(3) The use of a Government passenger carrier would provide protection not otherwise available.

Compelling operational considerations means those circumstances where home-to-work transportation is essential to the conduct of official business or would substantially increase a Federal agency's efficiency and economy.

Emergency means circumstances that exist whenever there is an immediate, unforeseeable, temporary need to provide home-to-work transportation for those employees necessary to the uninterrupted performance of the agency's mission. (An emergency may occur where there is a major disruption of available means of transportation to or from a work site, an essential Government service must be provided, and there is no other way to transport those employees.)

Employee means a Federal officer or employee of a Federal agency, including an officer or enlisted member of the Armed Forces.

Federal agency means:

- (1) A department (as defined in section 18 of the Act of August 2, 1946 (41 U.S.C. 5a));
- (2) An executive department (as defined in 5 U.S.C. 101);
- (3) A military department (as defined in 5 U.S.C. 102);
- (4) A Government corporation (as defined in 5 U.S.C. 103(1));
- (5) A Government controlled corporation (as defined in 5 U.S.C. 103(2));
- (6) A mixed-ownership Government corporation (as defined in 31 U.S.C. 9101(2));
- (7) Any establishment in the executive branch of the Government (including the Executive Office of the President);
- (8) Any independent regulatory agency (including an independent regulatory agency specified in 44 U.S.C. 3502(10));
- (9) The Smithsonian Institution;
- (10) Any nonappropriated fund instrumentality of the United States; and
- (11) The United States Postal Service.

Field work means official work requiring the employee's presence at various locations other than his/her regular place of work. (Multiple stops

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(itinerant-type travel) within the accepted local commuting area, limited use beyond the local commuting area, or transportation to remote locations that are only accessible by Government-provided transportation are examples of field work.)

Home means the primary place where an employee resides and from which the employee commutes to his/her place of work.

Home-to-work transportation means the use of a Government passenger carrier to transport an employee between his/her home and place of work.

Passenger carrier means a motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned (including those that have come into the possession of the Government by forfeiture or donation), leased, or rented (non-TDY) by the United States Government.

Work means any place within the accepted commuting area, as determined by the Federal agency for the locality involved, where an employee performs his/her official duties.

Subpart B—Authorizing Home-to-Work Transportation

§ 102-5.35 Who is authorized home-to-work transportation?

By statute, certain Federal officials are authorized home-to-work transportation, as are employees who meet certain statutory criteria as determined by their agency head. The Federal officials authorized by statute are the President, the Vice-President, and other principal Federal officials and their designees, as provided in 31 U.S.C. 1344(b)(1) through (b)(7). Those employees engaged in field work, or faced with a clear and present danger, an emergency, or a compelling operational consideration may be authorized home-to-work transportation as determined by their agency head. No other employees are authorized home-to-work transportation.

§ 102-5.40 May the agency head delegate the authority to make home-to-work determinations?

No, the agency head may not delegate the authority to make home-to-work determinations.

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§ 102-5.45 Should determinations be completed before an employee is provided with home-to-work transportation?

Yes, determinations should be completed before an employee is provided with home-to-work transportation unless it is impracticable to do so.

§ 102-5.50 May determinations be made in advance for employees who respond to unusual circumstances when they arise?

Yes, determinations may be made in advance when the Federal agency wants to have employees ready to respond to:

- (a) A clear and present danger;
- (b) An emergency; or
- (c) A compelling operational consideration.

NOTE TO § 102-5.50: Implementation of these determinations is contingent upon one of the three circumstances occurring. Thus, these may be referred to as "contingency determinations."

§ 102-5.55 How do we prepare determinations?

Determinations must be in writing and include the:

- (a) Name and title of the employee (or other identification, if confidential);
- (b) Reason for authorizing home-to-work transportation; and
- (c) Anticipated duration of the authorization.

§ 102-5.60 How long are initial determinations effective?

Initial determinations are effective for no longer than:

- (a) Two years for field work, updated as necessary; and
- (b) Fifteen days for other circumstances.

§ 102-5.65 What procedures apply when the need for home-to-work transportation exceeds the initial period?

The agency head may approve unlimited subsequent determinations, when the need for home-to-work transportation exceeds the initial period, for no longer than:

- (a) Two years each for field work, updated as necessary; and