

Federal Property Management Regulations

§ 101-40.408-3

experienced the problems leading to the imposition of temporary nonuse on which may be reasonably expected to experience similar problems. Temporary nonuse shall not be extended to unaffected facilities solely for punitive reasons or to damage the carrier's operations.

[51 FR 24339, July 3, 1986]

§ 101-40.408-2 Causes for temporary nonuse.

A carrier may be placed in temporary nonuse for the causes listed in paragraphs (a) through (n) of this section.

(a) Willful violations of the terms of the tariffs, tenders of service, commercial or Government bills of lading, or similar arrangements determining the relationship of the parties;

(b) Persistent and/or willful failure to meet requested packing/pickup service requirements;

(c) Deliveries exceeding time-in-transit standards when established by the Government; e.g., the GSA household goods tender of service and transit times established for shipments from agencies or the GSA Federal Supply Service distribution centers;

(d) Failure to meet required delivery dates on commercial or Government bills of lading;

(e) Failure to furnish and use clean and safe vehicles and freight handling equipment;

(f) Violation of Department of Transportation (DOT) hazardous materials regulations;

(g) Mishandling of freight; e.g., damaged or missing transportation seals, or improper loading, blocking, packing, or bracing of property;

(h) Excessive damage or loss to material transported;

(i) Improper routing;

(j) Failure to pay just debts so as to subject Government shipments to possible frustration, unlawful seizure, or detention;

(k) Failure to maintain insurance coverage;

(l) Operating without legal authority;

(m) Failure to settle claims in accordance with applicable Government regulations; and

(n) Repeated failure to comply with the regulations of the DOT, the Interstate Commerce Commission (ICC), or

State or local governments; or failure to comply with other applicable Government regulations.

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§ 101-40.408-3 Procedures.

(a) *Investigation and referral.* Agencies shall prescribe procedures for placing a carrier in temporary nonuse. Further, the procedures shall provide that a carrier which fails, within the period of temporary nonuse, to correct the cause(s) for which temporary nonuse was imposed shall be referred to the agency's debarring official for appropriate action.

(b) *Notice of proposal to place a carrier in temporary nonuse.* The carrier shall be notified by certified mail with return receipt requested of the following information:

(1) The effective dates of the proposed temporary nonuse;

(2) The extent or scope of the proposed temporary nonuse including the specific transportation facilities to which the period of exclusion will be applicable;

(3) The facts relied on to support the specified cause(s) for temporary nonuse;

(4) A period of 7 calendar days from the date the transportation officer's notice is received during which the carrier may submit in person, in writing, or through a representative, rebuttal information and arguments opposing the temporary nonuse;

(5) A period of 5 workdays during which the transportation officer will evaluate the carrier's rebuttal information and opposing arguments and render a decision;

(6) The availability of an appeal of the transportation officer's decision to a reviewing official, provided the request for review is received within 5 work days of receipt of the transportation officer's decision;

(7) The corrective action required by the carrier to be removed from temporary nonuse; and

(8) An additional nonuse period of 30 calendar days during which the carrier that fails to correct the cause(s) for temporary nonuse will be referred to the agency's debarring official for appropriate action.