

(3) The corrective action, if any, necessary to be removed from temporary nonuse status;

(4) An additional period of 30 calendar days for debarment referral if the conduct leading to the imposition of the period of temporary nonuse continues; and

(5) Procedures for the carrier to obtain a review of the transportation officer's decision by a designated reviewing official.

[51 FR 24339, July 3, 1986; 51 FR 27539, Aug. 2, 1986]

§ 101-40.408-4 Period of temporary nonuse.

Temporary nonuse shall be for a period commensurate with the seriousness of the cause(s) for temporary nonuse, but not for more than 90 consecutive days, except that the period of temporary nonuse may be extended an additional 30 calendar days for debarment referral when the carrier fails to correct the cause(s) for which temporary nonuse was imposed. The transportation officer, for good cause, may impose temporary nonuse beginning the same day that the notice of proposed temporary nonuse is given when continued use of the carrier's services would place the Government at risk. The transportation officer may consider terminating the temporary nonuse or reducing the period of temporary nonuse, upon the carrier's application, supported by documentation, for reasons deemed appropriate by the transportation officer, such as:

(a) Newly discovered material evidence;

(b) Bona fide change in the carrier's ownership or management; or

(c) Elimination of the cause(s) for which temporary nonuse was imposed.

[51 FR 24340, July 3, 1986]

§ 101-40.409 Debarment.

§ 101-40.409-1 General.

(a) The debarring official may, in the best interest of the Government, debar a carrier for any of the causes contained in § 101-40.409-2, using the procedures provided in 48 CFR 9.406-3. The existence of a cause for debarment under § 101-40.409-2 does not necessarily require that a carrier be debarred; the

seriousness of the carrier's acts or omissions and the mitigating factors should be considered in making any debarment decision.

(b) Debarment of a carrier constitutes debarment of all divisions or other organizational elements of the carrier, unless the debarment decision is limited by its terms to specific divisions or organizational elements. The debarring official may extend the debarment decision to include any affiliates of the carrier, if the affiliates are—

(1) Specifically named and

(2) Given written notice of the proposed debarment and an opportunity to respond.

(c) A carrier's debarment shall apply to all agencies including the Department of Defense unless the head of the agency requiring transportation services, or an authorized representative, states in writing the compelling reasons justifying continued business dealings between that agency and the carrier.

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§ 101-40.409-2 Causes for debarment.

The debarring official may debar a carrier for any of the following reasons:

(a) Failure of a carrier, within the prescribed period of temporary nonuse, to correct any of the causes listed in § 101-40.408-2;

(b) Conviction of or civil judgment for:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract for transportation;

(2) Violation of Federal or State anti-trust statutes;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the present responsibility of the carrier as a transporter of the Government's property or the