

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL-6875-2]

Pennsylvania: Final Authorization of State Hazardous Waste Management Program Revisions**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: Pennsylvania has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant such Final authorization to Pennsylvania. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and we do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule, and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by October 26, 2000.

ADDRESSES: Send written comments to Charles Bentley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone number: (215) 814-3379. You can examine copies of the materials submitted by Pennsylvania during normal business hours at the following locations: EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone number: (215) 814-5254; or Pennsylvania Department of Environmental Protection, Bureau of Land Recycling and Waste Management, P.O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, Phone number (717) 787-6239; or Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive,

Pittsburgh, PA 15222-4745, Phone number: (412) 442-4120. Persons with a disability may use the AT&T Relay Service to contact Pennsylvania Department of Environmental Protection by calling (800) 654-5984 (TDD users), or (800) 654-5988 (voice users).

FOR FURTHER INFORMATION CONTACT: Charles Bentley at (215) 814-3379.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Bradley M. Campbell,*Regional Administrator, Region III.*

[FR Doc. 00-24567 Filed 9-25-00; 8:45 am]

BILLING CODE 6560-50-P**GENERAL SERVICES ADMINISTRATION****41 CFR Parts 101-46 and 102-39**

[FPMR Amendment H-]

RIN 3090-AH23**Replacement of Personal Property Pursuant to the Exchange/Sale Authority****AGENCY:** Office of Governmentwide Policy, GSA.**ACTION:** Proposed rule.

SUMMARY: The General Services Administration is revising the Federal Property Management Regulations (FPMR) by moving coverage on replacement of personal property pursuant to the exchange/sale authority into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Your comments must reach us by November 27, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Send written comments to: Ms. Sharon A. Kiser, Regulatory Secretariat (MVRS), Federal Acquisition Policy Division, General Services Administration, 1800 F Street, NW., Washington, DC 20405.

Send comments by e-mail to: RIN.3090-AH23@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Martha Caswell, Director, Personal Property Management Policy Division (MTP), 202-501-3828.

SUPPLEMENTARY INFORMATION:**A. Background**

This proposed rule updates, streamlines, and clarifies FPMR part 101-46 and moves the part into the Federal Management Regulation (FMR). The proposed rule is written in a plain language question and answer format. In this format, a question and its answer combine to establish a rule. This means the employee and the agency must follow the language contained in both the question and its answer.

Proposed updates include:

1. A revised definition of "replacement."
2. A new provision regarding the fixed price sale of exchange/sale property to a State Agency for Surplus Property before conducting an exchange/sale with a non-Government entity.

3. Revised restrictions on types of personal property that are ineligible for exchange/sale, including removal of large weapons, fire control equipment, guided missiles, and furniture from the list of such property.

4. Clarified restrictions on the exchange/sale of combat material.

5. A revised requirement for documentation of exchange/sale transactions.

6. Removal of the requirement that the number of items acquired must equal the number of items exchanged or sold unless certain exceptions are met.

7. Removal of the requirement that proceeds from the sale of personal property under the exchange/sale authority be accounted for in accordance with General Accounting Office regulations.

8. A new annual reporting requirement for exchange/sale transactions.

B. Executive Order 12866

GSA has determined that this proposed rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

A regulatory flexibility analysis is not required under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because there is no requirement that this proposed rule be published in the **Federal Register** for notice and comment.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from

offerors, contractors, or members of the public which 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 exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–46 and 102–39

Government property management.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–46 is revised to read as follows:

PART 101–46—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

§ 101–46.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on replacement of personal property pursuant to the exchange/sale authority previously contained in this part, see FMR part 39 (41 CFR part 102–39).

CHAPTER 102—[AMENDED]

2. Part 102–39 is added to subchapter B of chapter 102 to read as follows:

PART 102–39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Subpart A—General

Sec.

102–39.5 How are the terms “I” and “you” used in this part?

102–39.10 What does this part cover?

102–39.15 Why should I use the exchange/sale authority?

102–39.20 What definitions apply to this part?

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Subpart B—Exchange/Sale Considerations

102–39.30 When should I not use the exchange/sale authority?

102–39.35 How do I determine whether to do an exchange or a sale?

102–39.40 When should I arrange for a reimbursable transfer of exchange/sale property to a Federal agency or other eligible organization, or sell such property to a State Agency for Surplus Property?

102–39.45 What prohibitions apply to the exchange/sale of personal property?

102–39.50 What necessary conditions apply to the exchange/sale of personal property?

102–39.55 What exceptions apply to the necessary conditions for exchange/sale?

Subpart C—Exchange/Sale Methods and Reports

102–39.60 What are the exchange methods?

102–39.65 What are the sales methods?

102–39.70 What are the accounting requirements for the proceeds of sale?

102–39.75 What am I required to report?

Authority: 40 U.S.C. 486(c).

Subpart A—General

§ 102–39.5 How are the terms “I” and “you” used in this part?

Use of pronouns “I” and “you” throughout this part refer to executive agencies.

§ 102–39.10 What does this part cover?

This part covers the exchange/sale authority, and applies to all personal property owned by executive agencies worldwide. For the exchange/sale of aircraft parts and hazardous materials you must meet the requirements in this part and in parts 101–37 and 101–42 of this title, respectively.

§ 102–39.15 Why should I use the exchange/sale authority?

You should use the exchange/sale authority to:

(a) Reduce the cost of replacement personal property. If you have personal property that needs to be replaced, you can exchange or sell that property and apply the exchange allowance or sales proceeds to the cost of similar replacement property. By contrast, if you choose not to replace the property using the exchange/sale authority, you may declare it excess and dispose of it through the normal disposal process. Any sales proceeds from the eventual sale of that property as surplus generally must be forwarded to the miscellaneous receipts account at the United States Treasury and thus would not be available to you.

(b) Avoid the costs (e.g., administrative and storage) that may be incurred when declaring the property to be replaced as excess and processing it through the normal disposal process. The normal disposal process includes abandonment or destruction, reutilization by other Federal agencies, donation to eligible non-Federal public or non-profit organizations, or sale to the public.

§ 102–39.20 What definitions apply to this part?

The following definitions apply to this part:

Acquire means to procure or otherwise obtain personal property, including by lease.

Combat material means arms, ammunition, and implements of war listed in the U.S. munitions list (22 CFR part 121).

Exchange means to replace personal property by trade or trade-in with the supplier of the replacement property.

Exchange/sale means to exchange or sell non-excess, non-surplus personal property and apply the exchange allowance or proceeds of sale in whole or in part payment for the acquisition of similar property.

Executive agency means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

Federal agency means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his/her direction).

Historic item means property having added value for display purposes because its historical significance is greater than its fair market value for continued use. Items that are commonly available and remain in use for their intended purpose, such as military aircraft still in use by active or reserve units, are not historic items.

Replacement means the process of acquiring property to be used in place of property that:

(1) Is still needed but no longer adequately performs the tasks for which it is used; or

(2) Does not meet the agency's need as well as the property to be acquired.

Similar means where the acquired item and replaced item:

(1) Are identical;

(2) Are designed and constructed for the same purpose;

(3) Constitute parts or containers for identical or similar end items; or

(4) Fall within a single Federal Supply Classification (FSC) group of property that is eligible for handling under the exchange/sale authority.

§ 102–39.25 How do I request a deviation from this part?

See §§ 102–2.60 through 102–2.110 of this chapter to request a deviation from the requirements of this part.

Subpart B—Exchange/Sale Considerations

§ 102–39.30 When should I not use the exchange/sale authority?

You should not use the exchange/sale authority if the exchange allowance or

estimated sales proceeds for the property will be unreasonably low. You must either abandon or destroy the property in accordance with part 101–45, subpart 101–45.9, of this title, or declare the property excess and follow the regulations in part 102–36 of this chapter, whichever is appropriate.

§ 102–39.35 How do I determine whether to do an exchange or a sale?

You must determine whether an exchange or a sale will provide the greater return for the Government. When estimating the return under each method, consider all administrative and overhead costs.

§ 102–39.40 When should I arrange for a reimbursable transfer of exchange/sale property to a Federal agency or other eligible organization, or sell such property to a State Agency for Surplus Property?

If you have property to replace which is eligible for exchange/sale, you should first, to the maximum extent practicable, solicit:

(a) Federal agencies known to use or distribute such property. If a Federal agency is interested in acquiring the property, you should arrange for a reimbursable transfer. Reimbursable transfers may also be conducted with the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations. When conducting a reimbursable transfer, you must:

- (1) Do so under terms mutually agreeable to you and the recipient.
- (2) Not require reimbursement of an amount greater than the estimated fair market value of the transferred property.
- (3) Apply the transfer proceeds in whole or part payment for property acquired to replace the transferred property; and

(b) State Agencies for Surplus Property (SASPs) known to have an interest in acquiring such property. If a SASP is interested in acquiring the property, you should consider selling it to the SASP by negotiated sale at fixed price under the conditions specified at § 101–45.304–12 of this title. The sales proceeds must be applied in whole or part payment for property acquired to replace the transferred property.

§ 102–39.45 What prohibitions apply to the exchange/sale of personal property?

You must not use the exchange/sale authority for:

- (a) The following FSC groups of personal property:
 - 10 Weapons.
 - 11 Nuclear ordnance.

- 12 Fire control equipment.
- 14 Guided missiles.
- 15 Aircraft and airframe structural components (except FSC Class 1560 Airframe Structural Components).
- 42 Firefighting, rescue, and safety equipment.
- 44 Nuclear reactors (FSC Class 4472 only).
- 51 Hand tools.
- 54 Prefabricated structure and scaffolding.
- 68 Chemicals and chemical products, except medicinal chemicals.
- 84 Clothing, individual equipment, and insignia.

Note to § 102–39.45(a): The exception to the prohibition in this paragraph (a) is Department of Defense (DOD) property in FSC Groups 10, 12, and 14 (except FSC Class 1005) for which the applicable DOD demilitarization requirements, and any other applicable regulations and statutes are met.

(b) Materials in the National Defense Stockpile (50 U.S.C. 98–98h) or the Defense Production Act inventory (50 U.S.C. App. 2093).

(c) Nuclear Regulatory Commission-controlled materials unless you meet the requirements of § 101–42.1102–4 of this title.

(d) Controlled substances, unless you meet the requirements of § 101–42.1102–3 of this title.

(e) Scrap materials, except in the case of scrap gold for fine gold.

(f) Property that was originally acquired as excess or forfeited property or from another source other than new procurement, unless such property has been in official use by the acquiring agency for at least 1 year. You may exchange or sell forfeited property in official use for less than 1 year if the head of your agency determines that a continuing valid requirement exists, but the specific item in use no longer meets that requirement, and that exchange or sale meets all other requirements of this part.

(g) Property that is dangerous to public health or safety without first rendering such property innocuous or providing for adequate safeguards as part of the exchange/sale.

(h) Combat material without demilitarizing it or obtaining a demilitarization waiver or other necessary clearances from the Department of Defense Demilitarization Office.

(i) Flight Safety Critical Aircraft Parts unless you meet the provisions of § 101–37.610 of this title.

(j) Acquisition of unauthorized replacement property.

(k) Acquisition of replacement property that violates any:

- (1) Restriction on procurement of a commodity or commodities;
- (2) Replacement policy or standard prescribed by the President, the Congress, or the Administrator of General Services; or
- (3) Contractual obligation.

§ 102–39.50 What necessary conditions apply to the exchange/sale of personal property?

You may use the exchange/sale authority only if you meet all of the following conditions:

- (a) The property exchanged or sold is similar to the property acquired;
- (b) The property exchanged or sold is not excess or surplus, and the property acquired is needed for approved programs;
- (c) The property exchanged or sold was not acquired for the principal purpose of exchange or sale; and
- (d) You document at the time of exchange or sale (or at the time of acquisition if it precedes the sale) that the exchange allowance or sale proceeds will be applied to the acquisition of replacement property.

§ 102–39.55 What exceptions apply to the necessary conditions for exchange/sale?

The exceptions that apply to the necessary conditions for exchange/sale are:

(a) You may exchange books and periodicals in your libraries for other books and periodicals, without monetary appraisal or detailed listing or reporting.

(b) In acquiring items for historical preservation or display at Federal museums, you may exchange historic items in the museum property account without regard to the FSC group, provided the exchange transaction is documented and certified by the head of your agency to be in the best interests of the Government and all other provisions of this part are met. The documentation must contain a determination that the item exchanged and the item acquired are historic items.

Subpart C—Exchange/Sale Methods and Reports

§ 102–39.60 What are the exchange methods?

Exchange of property may be accomplished by either:

- (a) The supplier (e.g., a Government agency, commercial or private organization, or an individual) delivers the replacement property to one of your organizational units and removes the property being replaced from that same organizational unit.
- (b) The supplier delivers the replacement property to one of your

organizational units and removes the property being replaced from a different organizational unit.

§ 102–39.65 What are the sales methods?

(a) You must use the methods, terms, and conditions of sale, and the forms prescribed in § 101–45.304 of this title in the sale of property being replaced, except that the provisions of § 101–45.304–2(a) of this title regarding negotiated sales are not applicable. Section 3709, Revised Statutes (41 U.S.C. 5), specifies the following conditions under which property being replaced can be sold by negotiation, subject to obtaining such competition as is feasible:

(1) The reasonable value involved in the contract does not exceed \$500; or
(2) Otherwise authorized by law.

(b) You may sell property being replaced by negotiation at fixed prices in accordance with the provisions of § 101–45.304–2(b) of this title.

§ 102–39.70 What are the accounting requirements for the proceeds of sale?

You must account for sales proceeds in accordance with the general finance and accounting rules applicable to you. Except as otherwise directed by law, all proceeds from the sale of personal property under this part will be available during the fiscal year in which the property was sold and for one fiscal year thereafter for obligation for the purchase of replacement property. Any sales proceeds not applied to replacement purchases during this time must be deposited in the United States Treasury as miscellaneous receipts in the general fund.

§ 102–39.75 What am I required to report?

(a) You must submit, within 90 calendar days after the close of each fiscal year, a summary report in a format of your choice on the exchange/sale transactions made under this part during the fiscal year (except for transactions involving books and periodicals in your libraries). The report must include:

(1) A list by Federal Supply Classification Group of property sold under this part showing the:

- (i) Number of items sold;
- (ii) Acquisition cost;
- (iii) Proceeds;
- (iv) Cost of sales; and
- (v) The source from which the property was originally acquired, i.e., new procurement, excess, forfeiture, or another source other than new procurement.

(2) A list by Federal Supply Classification Group of property exchanged under this part showing the:

- (i) Number of items exchanged;
- (ii) Acquisition cost;
- (iii) Exchange allowance; and
- (iv) The source from which the property was originally acquired, i.e., new procurement, excess, forfeiture, or another source other than new procurement.

(b) Submit your report electronically or by mail to the General Services Administration, Personal Property Management Policy Division (MTP), 1800 F St. NW, Washington DC 20405.

(c) Report control number: 1528–GSA–AN.

(d) If you make no transactions under this part during a fiscal year, you must submit a report stating that no transactions occurred.

Dated: September 21, 2000.

David A. Drabkin,

Acting Associate Administrator for Governmentwide Policy.

[FR Doc. 00–24661 Filed 9–25–00; 8:45 am]

BILLING CODE 6820–24–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[WT Docket No. 97–112, CC Docket No. 90–6, FCC 97–110]

Cellular Service and Other Commercial Mobile Radio Service in the Gulf of Mexico

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On April 25, 2000 (65 FR 24168), the Commission published proposed rules in the Second Further Notice, which proposed changes to its cellular service rules for the Gulf of Mexico Service Area (“GMSA”) and proposed licensing and service rules for operations in the Gulf of Mexico by other commercial mobile radio service providers. This document corrects the **Federal Register** as it appeared.

DATES: Comments on the Regulatory Flexibility Analysis are due October 26, 2000. Reply comments are due November 13, 2000.

ADDRESSES: All comments and reply comments may be filed with Magalie Roman Salas, Office of the Secretary, TW–A306, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Davida Grant, Commercial Wireless Division, (202) 418–7050.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission

published a document proposing to amend part 22 of the Commission’s rules in the **Federal Register** on April 25, 2000 (65 FR 24168). The Commission inadvertently omitted to include the Regulatory Flexibility Analysis and comment dates for the Regulatory Flexibility Analysis. This document corrects the **Federal Register** as it appeared. In FR Doc. 00–10221, published on April 25, 2000, 65 FR 24168, the Commission is adding the Regulatory Flexibility Analysis immediately preceding the Paperwork Reduction Act on page 24169, in column one.

Electronic and Paper Filing

Comments and reply comments may be filed with the FCC using the Commission’s Electronic Comment Filing System (“ECFS”) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998). Parties may also submit an electronic comment by Internet e-mail. Parties who choose to file by paper must file an original and four copies of each filing. If you want each Commissioner to receive a copy of your comments, you must file an original plus eleven copies. All filings must be sent to the Commission’s Secretary, Magalie Roman Salas, Office of the Secretary, TW–A306, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

Parties who choose to file by paper should also submit their comments on diskette. A 3.5-inch diskette formatted in an IBM compatible format using Microsoft Word for Windows or compatible software Diskettes should be submitted to: Davida Grant, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, S.W., Room 4–C241, Washington, D.C. 20554. The diskette should be accompanied by a cover letter and should be submitted in “read only” mode. The diskette should be clearly labeled with the commenter’s name, proceeding (including the docket number in this case—WT Docket No. 97–112, CC Docket No. 90–6), type of pleading (comments or reply comments), date of submission, and the name of the electronic file on the diskette. The label also should include the following phrase, “Disk Copy—Not an Original.” Each diskette should contain only one party’s pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission’s copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036.