

not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 28, 2011.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart F—California**

■ 2. Section 52.220, is amended by adding paragraphs (c)(379)(i)(C)(3) and (4) and (c)(381)(i)(A)(3) and (4) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (379) \* \* \*
- (i) \* \* \*
- (C) \* \* \*

(3) Rule 4602, "Motor Vehicle Assembly Coatings," amended on September 17, 2009.

(4) Rule 4603, "Surface Coating of Metal Parts and Products, Plastic Parts and Products and Pleasure Crafts," amended on September 17, 2009.

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- (381) \* \* \*
- (i) \* \* \*

- (A) \* \* \*
- (3) Rule 425, "Aerospace Coating Operations," revised February 23, 2010.
- (4) Rule 427, "Automotive Refinishing Operations," revised February 23, 2010.

\* \* \* \* \*  
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**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 101-26**

**[FPMR Amendment 2011-01; FPMR Case 2011-101-1; Docket Number 2011-017; Sequence 1]**

**RIN 3090-AJ19**

**Federal Property Management Regulation (FPMR); Procurement Sources and Programs**

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

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is revising the Federal Property Management Regulation (FPMR) by removing the provisions regarding priorities for use of Government supply sources. Users may access the FPMR and any corresponding documents at GSA's Web site at <http://www.gsa.gov/fmr> and by clicking on "FPMR & Related Files" on the left-hand menu.

**DATES:** *Effective Date:* This final rule is effective November 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat (MVCB), 1275 First St., NE., Washington, DC 20417, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Robert Holcombe, Office of Travel, Transportation and Asset Management (MT), General Services Administration, at (202) 501-3828 or email at [robert.holcombe@gsa.gov](mailto:robert.holcombe@gsa.gov). Please cite FPMR Amendment 2011-01.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

GSA is amending the FPMR (41 CFR Chapter 101) by removing the provisions regarding priorities for use of Government supply sources. The Federal Acquisition Regulation (FAR) is considered the primary regulation for use by all Federal executive agencies in their acquisition of supplies and services with appropriated funds; therefore, policies that repeat, paraphrase, or restate the FAR are unnecessary.

**B. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action" although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

**C. Regulatory Flexibility Act**

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revisions are not considered substantive. This final rule is also exempt from the Regulatory Flexibility Act per 5 U.S.C. 553(a)(2) because it applies to agency management or personnel. However, this final rule is being published to provide transparency in the promulgation of Federal policies.

**D. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the final rule does not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**E. Small Business Regulatory Enforcement Fairness Act**

This final rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management and personnel.

**List of Subjects in 41 CFR Part 101-26**

Procurement sources and programs.

Dated: August 4, 2011.

**Martha Johnson,**

*Administrator of General Services.*

For the reasons set forth in the preamble, GSA amends 41 CFR Chapter 101 as follows:

**CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS**

**PART 101-26—PROCUREMENT SOURCES AND PROGRAMS**

■ 1. The authority for 41 CFR part 101-26 is amended to read as follows:

Authority: 40 U.S.C. 121(c).

§ 101–26.107 [Removed]

■ 2. Remove § 101–26.107.

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BILLING CODE 6820–14–P

**GENERAL SERVICES  
ADMINISTRATION**

**41 CFR Part 102–39**

[FMR Change 2011–02; FMR Case 2011–  
102–3; Docket No. 2011–0019, Sequence 1]

RIN 3090–AJ20

**Federal Management Regulation;  
Prohibited List for Exchange/Sale of  
Personal Property**

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

**ACTION:** Final rule.

**SUMMARY:** The General Services  
Administration (GSA) is amending the  
Federal Management Regulation (FMR)  
by making changes to its policy on the  
replacement of personal property  
pursuant to the exchange/sale authority.

**DATES:** This final rule is effective on  
November 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** The  
Regulatory Secretariat (MVCB), 1275  
First Street, NE., Washington, DC 20417,  
(202) 501–4755, for information  
pertaining to status or publication  
schedules. For clarification of content,  
contact Mr. Robert Holcombe, Office of  
Governmentwide Policy, Office of  
Travel, Transportation, and Asset  
Management (MT), (202) 501–3828 or  
email at [robert.holcombe@gsa.gov](mailto:robert.holcombe@gsa.gov).  
Please cite FMR Change 2011–02, FMR  
Case 2011–102–3.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

A proposed rule was published in the  
**Federal Register** on June 26, 2009 (74  
FR 30493). Three changes were  
proposed.

Two of the proposed changes,  
regarding the handling of scrap property  
and an administrative change, did not  
elicit any significant objections during  
the public review period and were  
incorporated into a final rule published  
in the **Federal Register** on May 6, 2010  
(75 FR 24820).

The most significant change was the  
proposal to remove the exchange/sale  
prohibition on aircraft and airframe  
structural components subject to certain  
conditions. GSA received eleven  
comments on that proposal. Due to the  
interest in this proposal, GSA took this

intervening time to carefully review and  
consider these comments and  
objections. Public comments may be  
found at <http://www.regulations.gov> and  
searching for the applicable docket:  
GSA–FMR–2009–0002.

After careful review and  
consideration, GSA is choosing to  
codify the removal of the exchange/sale  
prohibition on aircraft and airframe  
structural components. In short, GSA  
has determined that removing the  
prohibition is in the best interest of the  
Government and will reduce agencies’  
costs of managing their aircraft fleets.  
GSA understands the intent of the  
property management legislation at 40  
U.S.C. 501 *et seq.* to require that  
property-holding agencies make full use  
of property already acquired in support  
of their mission. The exchange/sale  
authority, codified at 40 U.S.C. 503,  
supports that intent by allowing  
agencies to make use of their investment  
in these valuable assets and does not  
provide any commodity restrictions to  
this authority.

The rationale for removing aircraft  
from the prohibited list was provided in  
the “Background” section of the  
proposed rule is still considered valid  
and relevant. This rationale is reprinted  
below:

This proposed rule would remove the  
exchange/sale prohibition on aircraft and  
airframe structural components, subject to  
certain conditions. These commodities have  
been included on the list of properties  
normally ineligible for exchange/sale so that  
the acquisition and disposal of these  
commodities could be managed more closely.  
To conduct an exchange/sale of such  
commodities (which is encouraged to reduce  
the agency costs of managing their aircraft  
fleets), agencies have been required to submit  
deviation requests for approval by GSA.  
Adequate tools are now available for  
managing these assets without going through  
the time consuming and onerous deviation  
process. Further, removing these  
commodities from the “prohibited list”  
should not have a detrimental impact on the  
donation of such property. Finally, although  
agencies would no longer need to request  
deviations from GSA, a provision would be  
added to alert agencies that they must  
comply with the restrictions and limitations  
on the disposal of aircraft and aircraft parts  
contained in 41 CFR part 102–33.

Thus, for these reasons, this final rule  
revises the regulation to remove aircraft  
and aircraft structural components from  
the exchange/sale prohibited list as long  
as such transactions are conducted in  
accordance with provisions found at  
FMR part 102–33 (41 CFR part 102–33).  
Some specific comments received in  
response to the proposed rule, and  
GSA’s response to those comments, are  
provided below:

*Comment:* The proposed changes are  
unnecessary, unwise, and would  
constitute an evasion of congressional  
appropriation authority.

*GSA Response:* The proposed changes  
have been requested by the Federal  
property managers and aviation  
managers as a way to better manage  
aviation assets. As the Federal officials  
responsible for safely maintaining our  
Federal aviation assets in a state of  
readiness, GSA disagrees with the  
characterization that these changes are  
“unnecessary” and “unwise.” Also,  
GSA notes that Congress has specifically  
authorized the exchange/sale program  
under Title 40 U.S.C. 503. Therefore,  
this FMR change does not introduce the  
ability to conduct an exchange/sale  
transaction, nor evade Congressional  
authority; it furthers an agency’s ability  
to conduct an exchange/sale transaction  
as provided by law.

*Comment:* Furthermore, if enacted,  
this proposed change would further  
diminish the amount of personal  
property available to the State Agencies  
to place in public use. (10 similar  
comments).

*GSA Response:* As discussed in other  
documents and in discussions with our  
stakeholders, GSA has never denied a  
deviation request for the exchange/sale  
of these types of assets. These aviation  
assets were maintained on the  
prohibited list simply so that GSA could  
better manage these assets in  
compliance with GSA responsibilities  
under OMB Circular A–126, Section  
13c. In addition, FMR § 102–37.40  
requires that property provided to  
donation recipients be Federal surplus.  
Conversely, FMR § 102–39.65(b) states  
that property available for exchange/sale  
cannot be excess or surplus. Thus, this  
proposed change cannot diminish the  
amount of personal property available  
for donation to State Agencies, because  
the change only applies to personal  
property that was not eligible for  
donation in the first place.

*Comment:* Generally characterized as  
‘This rule change will hurt Federal  
civilian agencies who are not exchange/  
selling aviation assets because they will  
not be able to obtain excess aviation  
assets from other Federal agencies  
because of the notional rush by the  
holding agency to exchange/sell all  
possible assets to satisfy its aviation  
requirements.’ (3 comments).

*GSA Response:* Federal agencies are  
tasked to maintain their aviation assets  
to meet their agency missions, often  
with insufficient funds to meet all  
requirements. In order to meet their  
programmatic needs, they are  
encouraged to seek any funding