

but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended.

(e) *Exemption.* Public vessels as defined in paragraph (b) of this section are exempt from the requirements in this section.

(f) *Waiver.* For any vessel, the Captain of the Port Lake Michigan or a designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or environmental safety.

Dated: March 12, 2007.

**Bruce C. Jones,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. E7-8605 Filed 5-4-07; 8:45 am]

**BILLING CODE 4910-15-P**

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Parts 101-42, 101-45, and 102-40

[FPMR Case 2003-101-1; Docket 2007-001; Sequence 2]

[FMR Case 2003-102-4]

RIN 3090-AH21

### Federal Management Regulation; FPMR Case 2003-101-1; FMR Case 2003-102-4, Disposition of Personal Property with Special Handling Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration is proposing to amend the Federal Property Management Regulations (FPMR) by revising coverage on the hazardous and certain categories of personal property and moving it into the Federal Management Regulation (FMR) addressing all types of property requiring special handling. A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

**DATES:** Interested parties should submit comments in writing on or before June

6, 2007 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FPMR case 2003-101-1 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting "General Services Administration" as the agency of choice. At the "Keyword" prompt, type in the FMR case number (for example, FPMR case 2003-101-1) and click on the "Submit" button. Please include any personal and/or business information inside the document. You may also search for any document by clicking on the "Advanced search/document search" tab at the top of the screen, selecting from the agency field "General Services Administration", and typing the FMR case number in the keyword field. Select the "Submit" button.

- Fax: 202-501-4067.

- Mail: General Services

Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FPMR case 2003-101-1 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Robert Holcombe, Director, Asset Management (MTA), at (202) 501-3828. Please cite FPMR Case 2003-101-1.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This proposed rule updates, streamlines, and clarifies FPMR part 101-42 and moves the part into the FMR as part 102-40. This proposed rule also removes §§ 101-45.001, 101-45.002, and 101-45.004. The subject matter of these sections is addressed in section 102-40.190 (disposal of items requiring demilitarization); section 102-40.50 (handling of property reported to GSA so as to preserve civilian utility as far as possible); section 102-40.220 (disposal of gold as a precious metal); and section 102-40.135 (disposal of ATVs).

In addition, this proposed rule removes section 101-45.003 regarding vehicle reconditioning. That section

provides guidance that the Federal fleet community considers standard business practices, and is more prescriptive of specific tasks than is intended by this Governmentwide policy regulation.

The proposed rule is written in a plain language question and answer format. This style uses an active voice, shorter sentences, and pronouns. A question and its answer combine to establish a rule. The employee and the agency must follow the language contained in both the question and its answer.

Proposed FMR part 102-40 includes the following specific changes from FPMR part 101-42:

1. Proposed section 102-40.30 includes the following terms and definitions not found in section 101-42.001:

- Ammunition
- Commerce Control List Item (CCLI)
- Demilitarization
- Material Safety Data Sheet (MSDS)
- Medical devices
- Precious metal

2. Proposed section 102-40.95 revises FPMR section 101-42.401, Sales responsibilities for hazardous material, by allowing agencies to sell property with special handling requirements.

3. Proposed section 102-40.150 has special requirements for handling asbestos products.

4. Proposed section 102-40.140 introduces the topic of disposal of ammunition which does not appear in part 101-42. The disposition of ammunition and ammunition components are combined in this part 102-40. A new policy contained in part 102-40 allows the sale of ammunition and ammunition components to activities licensed to perform manufacturing/ demanufacturing/ remanufacturing, or licensed to recover basic material content of the ammunition or ammunition components. Expended ammunition cartridge cases may be transferred or donated when the recipient certifies that the cartridge case will be reloaded and used only for law enforcement purposes.

5. Proposed section 102-40.195 has special requirements for handling Commerce Control List items.

6. Proposed part 102-40 incorporates topics that appeared in 41 CFR part 101-45; specifically, the provisions appearing at section 101-45.001, "Demilitarization and decontamination"; section 101-45.002, "Gold"; and section 101-45.004, "All terrain vehicles." The subject matter of these sections is addressed in section 102-40.190 (disposal of items requiring demilitarization); section 102-40.50

(handling of property reported to GSA so as to preserve civilian utility as far as possible); section 102-40.220 (disposal of gold as a precious metal); and section 102-40.135 (disposal of ATVs).

This proposed rule removes section 101-45.003 regarding vehicle reconditioning. That section provides guidance that the Federal fleet community considers standard business practices, and is more prescriptive of specific tasks than is intended by this Governmentwide policy regulation.

7. Proposed part 102-40 is less prescriptive. It is GSA's intention to use these FMR regulations to describe "what" is to be accomplished, not "how" to perform a specific task.

#### 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

This proposed rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

#### 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 101-42, 101-45, and 102-40

Government property management.

Dated: December 11, 2006.

**Kevin Messner,**

*Acting Associate Administrator.*

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

#### CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

1. Part 101-42 is revised to read as follows:

#### PART 101-42—DISPOSITION OF PERSONAL PROPERTY WITH SPECIAL HANDLING REQUIREMENTS

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

#### § 101-42.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).

For information on the disposition of personal property with special handling requirements previously contained in this part, see FMR part 40 (41 CFR part 102-40), Disposition of Personal Property with Special Handling Requirements.

#### PART 101-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

2. The authority citation for part 101-45 continues to read as follows:

**Authority:** 40 U.S.C. 545 and 121(c).

#### § 101-45.001 [Removed]

3. Section 101-45.001 is removed.

#### § 101-45.002 [Removed]

4. Section 101-45.002 is removed.

#### § 101-45.003 [Removed]

5. Section 101-45.003 is removed.

#### § 101-45.004 [Removed]

6. Section 101-45.004 is removed.

#### CHAPTER 102—Federal Management Regulation

7. Part 102-40 is added to subchapter B of chapter 102 to read as follows:

#### PART 102-40—DISPOSITION OF PERSONAL PROPERTY WITH SPECIAL HANDLING REQUIREMENTS

##### Subpart A—General Provisions

Sec.

102-40.5 What does this part cover?

102-40.10 What is the governing authority for this part?

102-40.15 Who must comply with the provisions in this part?

102-40.20 To whom do "we", "you", and their variants refer?

102-40.25 How do we request a deviation from these requirements and who can approve it?

##### Definitions

102-40.30 What definitions apply to this part?

##### Subpart B—Responsibilities

102-40.35 What types of personal property require special handling?

102-40.40 What are our responsibilities concerning personal property requiring special handling?

102-40.45 What must we do when we have identified personal property with special handling requirements?

102-40.50 What must we do when we no longer need personal property with special handling requirements?

102-40.55 Do we report all excess personal property with special handling requirements to GSA?

102-40.60 Who is responsible for the custody of hazardous materials and property requiring special handling?

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##### Subpart C—Transfer and Donation of Personal Property With Special Handling Requirements

102-40.70 What must we do when reporting excess personal property with special handling requirements?

102-40.75 Is personal property requiring special handling available for transfer or donation?

102-40.80 Is donee certification required on the donation of personal property requiring special handling?

102-40.85 Must we follow additional requirements for the inspection of personal property with special handling requirements?

102-40.90 Who pays for the costs incident to the transfer or donation of personal property with special handling requirements?

##### Subpart D—Sale of Personal Property With Special Handling Requirements

102-40.95 May we sell personal property with special handling requirements?

102-40.100 May we use any sales method to sell personal property that require special handling?

102-40.105 What must we include in the sales terms and conditions when selling personal property with special handling requirements?

102-40.110 Are certifications required from the purchaser when selling personal property with special handling requirements?

102-40.115 What precautions must we take during the sales process for personal property requiring special handling?

102-40.120 May we dispose of personal property requiring special handling by abandonment or destruction?

##### Subpart E—Personal Property with Special Handling Requirements

102-40.125 What categories of personal property require special handling?

102-40.130 How do we manage acid-contaminated and explosive-contaminated property?

102-40.135 How do we handle all-terrain vehicles (ATVs)?

102-40.140 How do we handle ammunition?

102-40.145 How do we handle animals and plants?

102-40.150 How do we handle asbestos?

102-40.155 How do we handle controlled substances?

102-40.160 How do we handle drugs, biologicals, and reagents other than controlled substances?

102-40.165 How do we handle electronic products?

102-40.170 How do we handle firearms?

102-40.175 How do we handle hazardous materials?

102-40.180 How do we handle lead-containing paints and items bearing lead-containing paint?

- 102–40.185 How do we handle medical devices?
- 102–40.190 How do we handle Munitions List Items (MLIs)?
- 102–40.195 How do we handle Commerce Control List Items (CCLIs)?
- 102–40.200 How do we handle national stockpile material?
- 102–40.205 How do we handle Nuclear Regulatory Commission-controlled materials?
- 102–40.210 How do we handle ozone depleting substances?
- 102–40.215 How do we handle polychlorinated biphenyls (PCBs)?
- 102–40.220 How do we handle precious metals?
- 102–40.225 How do we handle vehicles not suitable for highway use?
- Appendix A Federal Supply Classes (FSC) Composed Predominantly of Hazardous Items
- Appendix B Federal Supply Classes and Groups Which Contain A Significant Number of Hazardous Items
- Authority:** 40 U.S.C. 121(c).

### Subpart A—General Provisions

#### § 102–40.5 What does this part cover?

This part provides guidance on the transfer, donation, sale and other disposal of Government personal property with special handling requirements located in the United States, the District of Columbia, the U.S. Virgin Islands, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, Federated States of Micronesia, the Marshall Islands, and Palau. For guidance on disposing of personal property located outside these areas, see §§ 102–36.380 through 102–36.400 of this subchapter B.

#### § 102–40.10 What is the governing authority for this part?

Section 121(c) of title 40 of the United States Code, Subtitle I—Federal Property and Administrative Services, authorizes the Administrator of General Services to prescribe regulations necessary to perform functions under this part.

#### § 102–40.15 Who must comply with the provisions in this part?

All executive agencies must comply with the provisions of this part unless authorized by separate statutory authority to do otherwise. Legislative and judicial agencies are encouraged to follow these provisions.

#### § 102–40.20 To whom do “we”, “you”, and their variants refer?

The pronouns “we”, “you”, and their variants throughout this part refer to the agency.

#### § 102–40.25 How do we request a deviation from these requirements and who can approve it?

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

#### Definitions

##### § 102–40.30 What definitions apply to this part?

The following definitions apply to this part:

*Acid-contaminated property* means property that may cause burns or toxicosis when improperly handled due to acid residues adhering to or trapped within the material.

*Ammunition* means any device charged with explosives, propellants, pyrotechnics, or nuclear, biological, or chemical material, for use in connection with defense, offense, or demolitions.

*Ammunition components* means the parts used in ammunition, to include cartridge cases, primers, bullets/projectiles, and propellant powder.

*Biologicals* means hazardous materials associated with the products and operations of applied biology and biochemistry, especially serums, vaccines, etc., produced from microorganisms.

*Commerce Control List Item (CCLI)* means property identified on the Commerce Control List (15 CFR part 774) subject to export controls under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420) and implemented by the Export Administration Regulations (15 CFR part 730). Items may be placed on the list for reasons of technology transfer, scarcity of materials, crime control, and national security.

*Controlled substances* means—

(1) Any narcotic, depressant, stimulant, or hallucinogenic drug, or any other drug or substance included in Schedules I, II, III, IV, or V of section 202 of the Controlled Substances Act (21 U.S.C. 812), except exempt chemical preparations and mixtures and excluded substances listed in 21 CFR part 1308;

(2) Any other drug or substance that the Attorney General determines to be subject to control under Subchapter I of the Controlled Substances Act (21 U.S.C. 801 to 904); or

(3) Any other drug or substance that by international treaty, convention, or protocol is to be controlled by the United States.

*Demilitarization* means, as defined by the Department of Defense (DOD) in the Defense Material Disposition Manual, DOD 4160.21–M ([www.dla.mil/dlaps/dod/416021m/guide.asp](http://www.dla.mil/dlaps/dod/416021m/guide.asp)), the act of destroying the military offensive or defensive advantages inherent in certain

types of equipment or material. The term includes mutilation, dumping at sea, scrapping, melting, burning, or alteration designed to prevent the further use of this equipment and material for its originally intended military or lethal purpose and applies equally to material in unserviceable or serviceable condition that has been screened through an Inventory Control Point and declared excess or foreign excess.

*Explosive-contaminated property* means property that may ignite or explode when exposed to shock, flame, sparks, or other high temperature sources due to residual explosive material in joints, angles, cracks, or around bolts.

*Extremely hazardous property* means property hazardous to the extent that it generally requires special handling such as licensing and training of handlers, protective clothing, and special containers and storage. Because of its extreme flammability, toxicity, corrosivity or other perilous qualities, it could constitute an immediate danger or threat to public health or safety or the environment if released to the general public.

*Firearm* means any weapon, silencer, or destructive device designed to, or readily convertible to, expel a projectile by the action of an explosive, as defined in Title 26 of the Internal Revenue Code (26 U.S.C. 5845). Excludes antique firearms as defined in 26 U.S.C. 5845(g).

*Hazardous material* means property that is deemed a hazardous material, chemical substance or mixture, or hazardous waste under the Hazardous Materials Transportation Act (HMTA), the Resource Conservation and Recovery Act (RCRA), or the Toxic Substances Control Act (TSCA).

Generally, hazardous materials have one or more of the following characteristics:

(1) Has a flash point below 200°F (93.3°C), closed cup, or is subject to spontaneous heating.

(2) Is subject to polymerization with the release of large amounts of energy when handled, stored, or shipped without adequate controls.

(3) In the course of normal operations, may produce fibers, dusts, gases, fumes, vapors, mists, or smokes which have one or more of the following characteristics:

(i) Causes 50 percent fatalities to test animals below 500 mg/kg of test animal weight when a single oral Lethal Dose, 50% (LD50) or semi-lethal dose is used.

(ii) Is a flammable solid or a strong oxidizing or reducing agent.

(iii) Causes first degree burns to skin in a short time exposure, or is systematically toxic by skin contact.

(iv) Has a permissible exposure limit (PEL) below 1000 parts per million for gases and vapors, below 500 mg/mm<sup>3</sup> for fumes, or below 2 fibers/CM<sup>3</sup> for dust.

(v) Causes occupational chemical dermatitis, which is any abnormality of the skin induced or aggravated by the work environment which includes but is not limited to primary irritant categories, allergic sensitizers, and photo sensitizers.

(4) Is radioactive to the extent it requires special handling.

(5) Is a recognized carcinogen according to Occupational Safety and Health Administration (OSHA) regulations at 29 CFR part 1910.

(6) Possesses special characteristics which, in the opinion of the holding agency, could be hazardous to health, safety, or the environment if improperly handled, stored, transported, disposed of, or otherwise improperly used.

*Hazardous waste* means those materials the handling and disposal of which are governed by 40 CFR parts 260 through 265 and 268. Hazardous materials generally become hazardous wastes when they are no longer suitable for their intended or valid alternate purpose, or for resource recovery. Some solid (non-hazardous) wastes are predetermined hazardous wastes upon generation (40 CFR part 261, subpart D); some are determined hazardous wastes when they exhibit ignitability, corrosivity, reactivity, or extraction procedure toxicity.

*Lead-containing paint* means paint or other similar surface coating material containing lead or lead compounds in excess of 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.

*Material Safety Data Sheet (MSDS)* means the documentation, as required by 29 CFR 1910.1200, identifying the potential hazards associated with the specific category of product or property. Sources of MSDS information may be the manufacturer, distributor, or the procuring agency.

*Medical devices* means any health-care product that does not achieve its principle intended purposes by chemical action in or on the body or by being metabolized. Medical devices are categorized in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301–399).

*Munitions List Item (MLI)* means property, services, and related technical data designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act (22 U.S.C. 2778 and 2794(7)). Implementing regulations may be found in 22 CFR parts 120 and 121.

*Nuclear Regulatory Commission-Controlled Material* means material subject to the controls of the Nuclear Regulatory Commission (NRC). The materials are defined as follows:

(1) *Byproduct material*: Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material. (See 10 CFR part 30).

(2) *Source material*: Uranium or thorium, or any combination thereof, in any physical or chemical form or ores which contain by weight one-twentieth of one percent (0.05%) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material. (See 10 CFR part 40).

(3) *Special nuclear material*: Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, any other materials which the NRC, pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*), including any amendments thereto, determines to be special nuclear material, or any material artificially enriched by any of the foregoing, but does not include source material. (See 10 CFR part 70).

*Perishable* means an item subject to rapid deterioration or spoilage when removed from special storage conditions or care, such as fresh food, animals, and plants.

*Precious metal* means gold, silver, and platinum group metals (platinum, palladium, iridium, rhodium, osmium, and ruthenium).

*Reagent* means any hazardous material used to detect or measure another substance or to convert one substance into another by means of the reactions it causes.

### Subpart B—Responsibilities

#### § 102–40.35 What types of personal property require special handling?

Personal property containing hazardous materials or other elements that require compliance with Federal, State, and local laws in their usage, storage, transportation and disposal, and the inadequate control of which may lead to potential safety, health, environmental, economic, or national security risks.

#### § 102–40.40 What are our responsibilities concerning personal property requiring special handling?

You are responsible for—  
(a) Identifying and accounting for property with special handling requirements;

(b) Complying with applicable Federal, State, and local laws and regulations concerning the handling, storage, labeling, use, and final disposition of such property;

(c) Ensuring adequate storage and safeguard of such property, *e.g.*, secured or limited access storage areas, warning signs, and protective clothing and equipment; and

(d) Transporting materials requiring special handling in accordance with Department of Transportation (DOT), Environmental Protection Agency (EPA), and State and local regulations.

#### § 102–40.45 What must we do when we have identified personal property with special handling requirements?

You must properly mark, tag, or label personal property with special handling requirements in accordance with applicable Federal law, including the Occupational Safety and Health Administration requirements (29 CFR 1910.1200), regarding the actual or potential hazard associated with the property, and ensure that such information is maintained and perpetuated in the official agency property records. Labeling requirements for substances that are excluded from the requirements of 29 CFR 1910.1200 are found in the references listed in 29 CFR 1910.1200(b)(5) and (6).

#### § 102–40.50 What must we do when we no longer need personal property with special handling requirements?

Except for the items listed in § 102–40.55, you must report personal property with special handling requirements that you no longer need to the General Services Administration (GSA) for Federal or donation screening. Dispose of property not required to be reported to GSA in accordance with applicable Federal, State, and local laws and regulations, and your agency procedures. Disposal must be accomplished so as to preserve as much as possible any civilian utility or commercial value of the property.

#### § 102–40.55 Do we report all excess personal property with special handling requirements to GSA?

No. Because of their characteristics, certain items are not subject to the usual disposal procedures. You should not report to GSA excess personal property with special handling requirements in any of the categories listed below.

(a) *Extremely hazardous personal property*. You must dispose of extremely hazardous personal property not reported to GSA in accordance with applicable demilitarization requirements, EPA regulations, State

and local laws or regulations, and other Federal laws, regulations or guidelines.

(b) *Hazardous wastes*. You must dispose of hazardous wastes in accordance with applicable demilitarization requirements, EPA regulations, State and local laws or regulations, and other Federal laws, regulations or guidelines.

(c) *Perishables*. You may dispose of perishables by abandonment/destruction when it is not detrimental to public health or safety. See the abandonment/destruction provisions in part 102–36 of this subchapter B.

(d) *EPA research materials*. The EPA, under its independent authority, may transfer accountability for hazardous materials deemed by EPA to be research materials to Federal, State, and local agencies, research institutions, or commercial businesses to conduct research or to perform the actual cleanup of a contaminated site.

**§ 102–40.60 Who is responsible for the custody of hazardous materials and property requiring special handling?**

The holding agency is responsible for the custody of hazardous materials and property requiring special handling. Custody of these items may be transferred in whole or in part to another Federal agency with that agency's consent.

**§ 102–40.65 Who is responsible for the care and handling of hazardous materials and property requiring special handling?**

The holding agency is responsible for the care and handling of hazardous materials and property requiring special handling until the time the property has completed the disposal process; and has been transferred, donated, sold, or destroyed, as authorized by this part. The nature of this material may require extra precautions, processes, or equipment, thereby increasing the cost of care and handling.

**Subpart C—Transfer and Donation of Personal Property With Special Handling Requirements**

**§ 102–40.70 What must we do when reporting excess personal property with special handling requirements?**

You must include with your report of excess a complete description of the characteristics of the property, use or disposal restrictions, and the actual or potential hazard associated with the use, handling, or storage of the item. You should include a Material Safety Data Sheet (MSDS) or Hazardous Material Information System (HMIS) record (or equivalent) if available. The physical item which requires special

handling must also be marked so as to identify its special characteristic.

**§ 102–40.75 Is personal property requiring special handling available for transfer or donation?**

Generally, yes, with the exceptions contained in this part, personal property requiring special handling is available for transfer or donation in accordance with 41 CFR parts 102–36 and 102–37 of this subchapter B respectively. However, all transfer and donation documents must include a complete description of the actual or potential hazard associated with the handling, storage, use, or disposal of the item.

**§ 102–40.80 Is donee certification required on the donation of personal property requiring special handling?**

Yes, GSA will not approve a donation to a State Agency for Surplus Property (SASP) unless an eligible donee has been identified. The transfer document must contain a full description of the actual or potential hazard(s) and restriction(s) associated with the handling, storage, use, transportation, or disposal of the item. In addition, the following certification (or an equivalent) must be signed by the donee:

I (We), the undersigned, hereby certify that the donee has knowledge and understanding of the hazardous nature of the property hereby donated and will comply with all applicable Federal, State, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, and disposal of the hazardous material(s). The donee agrees and certifies that the United States shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the hazardous material(s) or its final disposition. Additionally, the donee agrees and certifies to hold the United States harmless from and shall indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the hazardous material(s), its use, or final disposition.

\_\_\_\_\_  
Name of Donee (print or type)

\_\_\_\_\_  
Signature of Donee

**§ 102–40.85 Must we follow additional requirements for the inspection of personal property with special handling requirements?**

Yes, you are responsible for establishing appropriate safeguards and providing instructions for personal protection to screeners who are inspecting property with special handling requirements.

**§ 102–40.90 Who pays for the costs incident to the transfer or donation of personal property with special handling requirements?**

You may charge the Federal agency or donation recipient any costs you incurred in packing, preparing for shipment, and transporting property with special handling requirements (see parts 102–36 and 102–37 of this subchapter B).

**Subpart D—Sale of Personal Property With Special Handling Requirements**

**§ 102–40.95 May we sell personal property with special handling requirements?**

Generally, yes, you may sell personal property with special handling requirements when you (1) comply with applicable Federal, State, and local laws and regulations, including 41 CFR part 102–38, and (2) follow applicable precautions including but not limited to proper packaging of the property, labeling of appropriate warning signs, and allowing for inspection of the property with proper safeguards.

**§ 102–40.100 May we use any sales method to sell personal property that requires special handling?**

Yes, you may use any of the sales methods provided in part 102–38 of this subchapter B, but you must—

(a) Hold sales of such property separately from other sales,

(b) Store and display such property in a safe and controlled manner as required by applicable statutes or regulations,

(c) Indicate if the property is being sold only for scrap, and/or if there are any use requirements, and

(d) Comply with the requirements of other Federal, State, and local laws and regulations.

**§ 102–40.105 What must we include in the sales terms and conditions when selling personal property with special handling requirements?**

In addition to the recommended sales terms and conditions contained in part 102–38 of this subchapter B, when selling personal property with special handling requirements you must include the following in the sales terms and conditions:

(a) A full description of the actual or potential hazard(s) associated with handling, storage, or use of the item, as well as any use restrictions or limitations.

(b) A MSDS, when available.

(c) A certification, executed by a duly authorized agency official, that the item is appropriately labeled and packaged in accordance with applicable regulatory and statutory requirements.

(d) Any additional requirements the purchaser must comply with prior to removal, *e.g.*, demilitarization on-site.

(e) The necessary steps the purchaser must take in the handling and transportation of the property when the property is sold.

(f) A statement that it is the purchaser's responsibility to comply with all applicable Federal, State, local, and export laws and regulations to ensure the proper registration, licensing, possession, transportation, and subsequent use, resale or disposal of the property. You must use the following certification (or an equivalent certification) when offering for sale an item requiring special handling. Failure to sign the certification may result in the bid being rejected as nonresponsive:

The undersigned bidder hereby certifies that if awarded a contract under this invitation for bids, the bidder will comply with all applicable Federal, State, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, resale, export, or other use of the material hereby purchased. The bidder will hold the United States harmless from and indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions, or other claims of any nature arising from or incident to the handling, use, storage, shipment, resale, export, or other disposition of the items purchased.

\_\_\_\_\_  
Name of bidder (print or type)

\_\_\_\_\_  
Signature of bidder

**§ 102–40.110 Are certifications required from the purchaser when selling personal property with special handling requirements?**

Yes, in addition to receiving a certification that the purchaser will comply with all Federal, State, and local laws and regulations with respect to the care, handling, storage, shipment, and disposal of personal property with special handling requirements, you must obtain from the purchaser a certification that the purchaser will comply with any additional requirements associated with the property, such as demilitarization, export controls on Commerce-controlled list items, or mutilation requirements for flight safety critical aircraft parts.

**§ 102–40.115 What precautions must we take during the sales process for personal property requiring special handling?**

It is your responsibility to prepare items with special handling requirements for sale, provide all necessary information to ensure that prospective bidders are informed of hazards, and identify precautions that bidders should take to protect

themselves while inspecting, packing or moving items with special handling requirements. You must make any safety gear or equipment needed during the sales process available to prospective bidders and others involved in the inspection, packing, or moving of these items.

**§ 102–40.120 May we dispose of personal property requiring special handling by abandonment or destruction?**

Yes, you may dispose of personal property requiring special handling by abandonment or destruction. However, in addition to the requirements for the abandonment or destruction of property in §§ 102–36.305 through 102–36.330 of this subchapter B, you must also satisfy applicable Federal, State, and local waste disposal and air and water pollution control standards, laws, and regulations. You must ensure that such property, including empty hazardous material containers, not be abandoned until made safe, demilitarized, reduced to scrap, or otherwise made innocuous. National security classified items must be declassified or destroyed in accordance with holding agency regulations.

**Subpart E—Personal Property With Special Handling Requirements**

**§ 102–40.125 What categories of personal property require special handling?**

Many categories of personal property have special handling requirements in compliance with applicable Federal, State, and local regulations and ordinances for their handling, transportation, storage, disposal and use. See Appendix A to this part for a listing of Federal Supply Classifications (FSCs) containing predominately hazardous items and Appendix B to this part for a listing of FSCs containing a significant number of hazardous items. See §§ 102–40.130 through 102–40.225 for special handling instructions for some categories of property that Federal property managers are likely to have responsibility for.

**§ 102–40.130 How do we manage acid-contaminated and explosive-contaminated property?**

Acid-contaminated or explosive-contaminated property is considered extremely hazardous property and is not reported to GSA for subsequent transfer or donation. You may dispose of such property by sale, in accordance with subpart B of this part and with the condition that the purchaser sufficiently decontaminates the property to the degree that it is no longer extremely hazardous. When selling acid or explosive contaminated property, the

sales terms and sales documentation must both include the following certification, or an equivalent certification, which must be signed by the successful bidder.

It is hereby certified that the undersigned purchaser will comply with all the applicable Federal, State, and local laws, ordinances and regulations with respect to the care, handling, storage, and shipment, resale, export, and other use of the materials, hereby purchased, and that he/she is a user of, or dealer in, said materials. This certification is made in accordance with and subject to the penalties of title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

\_\_\_\_\_  
Name of purchaser (print or type)

\_\_\_\_\_  
Signature of purchaser

**§ 102–40.135 How do we handle all-terrain vehicles (ATVs)?**

Three-wheeled and four-wheeled all terrain vehicles (ATVs) can be exchanged with a dealer under the provisions of part 102–39 of this subchapter B. ATVs may be offered for sale as either salvage or scrap only after they have been mutilated in a manner to prevent operational use.

**§ 102–40.140 How do we handle ammunition?**

(a) Report usable ammunition to GSA for possible transfer to a Federal agency. You must not donate surplus ammunition, but you may donate surplus ammunition components. You may sell ammunition and ammunition components only to companies licensed to perform manufacturing/demanufacturing/remufacturing processes under the provisions of 18 U.S.C. 923 or other Federal law or regulation. You must follow any demilitarization requirements. When selling ammunition components, the sales terms and sales documentation must both include the following certification, or an equivalent certification, which must be signed by the successful bidder:

Item No. \_\_\_\_\_ contains ammunition components offered for sale in this invitation. The undersigned certifies that he/she will comply with all applicable local, State, and Federal laws and regulations concerning ammunition components. If the item being sold is scrap ammunition components, the undersigned certifies that these scrap ammunition components will not be used for the original manufactured purpose.

\_\_\_\_\_  
Name of bidder (print or type)

\_\_\_\_\_  
Signature of bidder

(b) Expended ammunition cartridge cases may be transferred or donated when the recipient certifies that the

spent brass will be reloaded and used only for law enforcement purposes.

(c) The transportation of primers or propellant powder is governed by 49 CFR parts 171 through 180.

**§ 102–40.145 How do we handle animals and plants?**

When possible, you should report live animals and plants to GSA for transfer, donation, or sale. They are, however, considered perishables and could be immediately disposed of by abandonment/destruction procedures in accordance with abandonment/destruction authority in 41 CFR part 102–36 of this subchapter B. Unfit horses and mules may be destroyed or put out to pasture in accordance with 40 U.S.C. 1308. Under 40 U.S.C. 555, you may donate canines formerly used in the performance of law enforcement duties to an individual experienced in handling canines in the performance of those duties.

**§ 102–40.150 How do we handle asbestos?**

(a) Items with asbestos content must be handled in accordance with the EPA regulations found at 40 CFR part 61 subpart M.

(b) Report to GSA excess personal property containing nonfriable asbestos, as defined in 40 CFR 61.141, for subsequent transfer, donation or sale in accordance with part 102–36 of this subchapter B. Nonfriable asbestos materials cannot (1) when dry; be crumbled, pulverized, or reduced to powder by hand pressure, or (2) contain asbestos which is bonded or otherwise rendered unavailable for release into the atmosphere through normal usage. All documentation on excess personal property containing nonfriable asbestos, such as reporting, transfer, and sales documents, must include a warning statement that the item may contain asbestos and must not be cut, crushed, sanded, disassembled, or otherwise altered. The property must also be labeled or marked with such warning statements.

(c) You must use a warning such as the following on the documentation reporting the excess or transferring an item containing asbestos:

**WARNING**

This property contains asbestos. Inhaling asbestos fibers may cause cancer. Do not release fibers by cutting, crushing, sanding, disassembling, or otherwise altering this property. End users and new owners, if transferred, should be warned. OSHA standards for personnel protection are codified at 29 CFR 1910.1001. EPA disposal standards are codified at 40 CFR part 61. State and local authorities may have additional restrictions on the disposal of items containing asbestos.

(d) Property containing asbestos should be labeled with a warning such as the following:

**WARNING**

This property contains asbestos. Inhaling asbestos fibers may cause cancer. Do not release fibers by cutting, crushing, sanding, disassembling, or otherwise altering this property.

(e) Nonfriable asbestos that is not transferred, donated, or sold may be abandoned as provided in §§ 102–36.305 through 102–36.330 of this subchapter B. If destroyed by burial, items containing friable or nonfriable asbestos must be disposed of by burial at a site that meets the requirements of 40 CFR 61.154.

**§ 102–40.155 How do we handle controlled substances?**

(a) You are not required to report excess controlled substances to GSA, but you should make reasonable efforts to transfer them to Federal agencies in accordance with Drug Enforcement Administration (DEA) regulations (21 CFR 1307.22). The recipient agency must certify that it is authorized to procure the particular controlled substance and provide the registration number on the Certificate of Registration, issued by DEA.

(b) You must not donate controlled substances.

(c) In accordance with sales procedures specified in part 102–38 of this subchapter B, and under the conditions specified in this subsection (c), you may sell controlled substances by sealed bid only to bidders who have registered with DEA to manufacture, distribute, or dispense the particular controlled substance. As a condition of sale the bidder must submit verification of DEA registration. Prior to finalizing the sale, you must obtain confirmation from DEA of the bidder's status as a registered manufacturer, distributor, or dispenser of controlled substances.

(1) The following statement, or an equivalent statement, must be included in the sales terms and conditions when selling controlled substances:

The bidder shall complete, sign, and return with his/her bid the certificate as contained in this invitation. No award will be made or sale consummated until after this agency has obtained from the Drug Enforcement Administration, Department of Justice, verification that the bidder is registered to manufacture, distribute, or dispense those controlled substances which are the subject of the award.

(2) The following certification, or an equivalent certification, must be made a part of the Invitation for Bid to be completed and signed by the bidder and returned with the bid. Failure to sign

the certification may result in the bid being rejected as nonresponsive:

The undersigned bidder certifies that he/she is Registered with the Drug Enforcement Administration, Department of Justice, as a manufacturer, distributor, or dispenser of the controlled substances for which a bid is submitted and the registration number is:

\_\_\_\_\_  
Name of bidder (print or type)

\_\_\_\_\_  
Signature of bidder

\_\_\_\_\_  
Address of bidder (print or type)

\_\_\_\_\_  
City, State, Zip code

(d) You must not abandon controlled substances. You must destroy controlled substances in such a manner as to ensure total destruction to preclude any further use, and ensure such destruction is in compliance with DEA regulations, 21 CFR 1307.21, or other procedures approved by DEA, and coordinate with local air and water pollution control authorities when required. Destruction must be witnessed and certified by two employees of your agency.

The following certification, or an equivalent certification, must be used to document the destruction of controlled substances:

We, the undersigned, have witnessed the destruction of the (controlled substance(s)) described herein and in the manner and on the date stated herein:

\_\_\_\_\_  
Witness                      Date

\_\_\_\_\_  
Witness                      Date

**§ 102–40.160 How do we handle drugs, biologicals, and reagents other than controlled substances?**

(a) Drugs, biologicals, and reagents other than controlled substances may be transferred to another Federal agency for official purposes under procedures specified in part 102–36 and this subchapter B. For donation of drugs, biologicals, or reagents other than controlled substances, follow the procedures in part 102–37 of this subchapter B.

(b) Drugs, biologicals, and reagents other than controlled substances must be clearly identified when they are unfit for human use. As a general rule, you must destroy drugs, biologicals, and reagents unfit for human use, with destruction witnessed and certified by two representatives of your agency, and coordinated with local air and water pollution control authorities, when required. However, you may report such property to GSA for subsequent transfer or donation for the purpose of animal experimental use when the property is unfit due to expired shelf life. The following certification, or an equivalent

certification, must be used to document the destruction of drugs, biologicals, and reagents;

We, the undersigned, have witnessed the destruction of the (drugs, biologicals, and reagents) described in the foregoing certification in the manner and on the date stated herein:

_____ Witness	_____ Date
_____ Witness	_____ Date

(c) The sale of any unexpired drugs, biologicals, or reagents must be in accordance with rules published by the Food and Drug Administration ([www.fda.gov](http://www.fda.gov)). You may sell drugs, biologicals, and reagents other than controlled substances only to those entities legally qualified to engage in the sale, manufacture, or distribution of such items and a certification or evidence of licensing must accompany the bids. An entity is legally qualified when a Federal agency (*e.g.*, the Department of Health and Human Services, the Drug Enforcement Administration, or the Department of Agriculture) or State agency having legal or regulatory oversight over that commodity has approved the entity to engage in the designated activity.

(1) When selling drugs, biologicals, and reagents other than controlled substances, the following condition of sale (or an equivalent condition of sale) must be used:

The bidder shall complete, sign, and return with his/her bid the certification as contained in this invitation. No award will be made or sale consummated until after this agency has determined that the bidder is legally licensed to engage in the manufacture, sale, or distribution of drugs.

(2) The following certification, or an equivalent certification, must be made a part of the invitation for bids (and contract), to be completed and signed by the bidder, and returned with the bid with a copy of his/her license. Failure to sign the certification may result in the bid being rejected as nonresponsive.

The undersigned bidder certifies that he/she is legally licensed to engage in the manufacture, sale, or distribution of drugs, and proof of his/her license to deal in such materials is furnished with this bid.

_____ Name of bidder (print or type)
_____ Signature of bidder
_____ Address of bidder (print or type)
_____ City, State, Zip code

(d) Drugs, biologicals, and reagents that are controlled substances are subject to the same provisions as controlled substances in lieu of the provisions in this section.

#### § 102–40.165 How do we handle electronic products?

(a) In accordance with the procedures in this section, excess electronic items for which radiation safety performance standards are prescribed by FDA under 21 CFR part 1010 must be reported to GSA for transfer to Federal agencies in accordance with part 102–36 of this subchapter B and may be donated or sold in accordance with parts 102–37 and 102–38 of this subchapter B, respectively. (See 21 CFR 1000.15 for items of electronic items that are required to follow radiation safety performance standards.) For items not meeting safety performance standards, excess reports must include a statement that the items are not in compliance with applicable radiation safety performance standards. Sales documents must also clearly warn purchasers that the items may not be in compliance with FDA radiation safety performance standards prescribed under 21 CFR part 1010 and that the purchaser assumes all risks associated with the use or resale of the items. The following type of warning may be placed on the sales documentation:

#### WARNING

Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed under 21 CFR part 1010, and use may constitute a potential for personal injury unless modified. The purchaser agrees that the United States shall not be liable for personal injuries to, disabilities of, or death of the purchaser, the purchaser's employees, or to any other persons arising from or incident to the purchase of this item, its use, or disposition. The purchaser shall hold the United States harmless from and shall indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to purchase or resale of this item. The purchaser agrees to notify any subsequent purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR part 1010.

(b) In accordance with 21 CFR 1002.40 and 1002.41 (Dealer and Distributor Records), when you sell electronic products for which there are performance standards (listed in 21 CFR part 1010) you must obtain from the purchaser and forward to the appropriate manufacturer (unless authorized by 21 CFR 1002.4 to have the dealer or distributor hold and preserve) the following information:

(1) Name and address.

(2) Product name, to include brand name, model number, serial or other identification number.

(3) Date of sale, award, or lease.

(c) You must dispose of electronic equipment in accordance with all Federal and State laws, including the Solid Waste Disposal Act (42 U.S.C. 6901, *et seq.*) and Executive Order 13101. You should also be aware of the prohibitions and liabilities contained in 42 U.S.C. 9607.

#### § 102–40.170 How do we handle firearms?

(a) You must submit reports and transfer documents on excess firearms to GSA (7FP–8), Denver, CO 80225–0506. GSA will approve transfers of firearms only to those Federal agencies authorized to acquire firearms for official use, and may require additional written justification from the requesting agency.

(b) GSA may donate only surplus hand guns, rifles, shotguns, and individual light automatic weapons previously used by the Federal Government, with less than .50 caliber in Federal Supply Classification (FSC) 1005, and rifle and shoulder fired grenade launchers in FSC 1010, with a disposal condition code of 4 or better (see condition codes in § 102–36.240 of this subchapter B). Only eligible law enforcement entities whose primary function is the enforcement of applicable Federal, State, and/or local laws, and whose compensated law enforcement officers have powers to apprehend and arrest, may obtain these donated firearms for law enforcement purposes.

(c) For purposes of donation under subsection (b) above, each Standard Form (SF) 123 must be accompanied by a conditional transfer document, signed by both the intended donee and the State Agency for Surplus Property (SASP), that includes the special terms, conditions, and restrictions prescribed by GSA, and any other required forms or information. Restrictions on donated firearms are perpetual and may not be amended by the SASP without prior written approval from GSA. You must release or ship donated firearms directly to the designated donee.

(d) When authorized by circumstances described in paragraphs (e), (f), (g), or (i) of this section, the destruction of firearms must be performed by an activity authorized by your agency head or designee. The destruction must be witnessed by two additional agency employees authorized by the agency head or designee.

(e) When the approved donee no longer needs the donated firearms, the donee must notify the SASP. The SASP

may, with GSA approval, reassign firearms to another donee within the State or to a donee in another state through the appropriate SASP. In such a case, transfer of the firearms must be between eligible donees only. No SASP is eligible to take custody of the firearm. Otherwise, the donee and a representative from the SASP, or designee, must witness destruction of the firearms and complete and sign a certificate of destruction, which will be maintained by the SASP.

(f) You must not abandon firearms. You must destroy unneeded firearms by crushing, cutting, breaking, or deforming each firearm in a manner to ensure that each firearm is rendered completely inoperative. Destruction of firearms must be performed as stated in paragraph (d).

(g) You must not dispose of firearms under an exchange/sale transaction or by sale. Surplus firearms may be sold only for scrap after total destruction as described in (f) above to ensure that the firearms are rendered completely inoperative and to preclude their being made operative. Such sale shall be conducted under part 102-38 of this subchapter B.

(h) Firearms received as foreign gifts may be offered for transfer to Federal agencies or sold to the gift recipient in accordance with part 102-42 of this subchapter B.

(i) Firearms that are forfeited, voluntarily abandoned, or unclaimed as described in 40 U.S.C. 1306 and 40 USC 552, must be reported to GSA for disposal in accordance with § 102-41.195 of this subchapter B. The GSA will direct the disposition of these firearms under this section.

#### § 102-40.175 How do we handle hazardous materials?

(a) You may use any of the following methods for the identification of hazardous materials:

(1) As part of the process under current acquisition standards, manufacturers must provide MSDSs to document potential hazards. MSDSs are also prescribed by OSHA under 29 CFR part 1910 and Executive Order 12196 paragraph 1-602(c), Occupational Safety and Health Programs for Federal Employees (February 26, 1980).

(2) An automated database maintained by GSA Federal Supply Service contains MSDS for all GSA-procured hazardous materials. To request an MSDS, you may send an e-mail to [MSDS@gsa.gov](mailto:MSDS@gsa.gov), or call, Toll Free: 866-588-7659, DSN: 465-5097, or Commercial: 816-926-5097.

(3) A collection of MSDS information in DOD's Hazardous Materials

Information System (HMIS) provides transportation and disposal information.

(4) Appendix A to this part contains a list of the Federal Supply Classification (FSC) classes of property that are composed predominantly of hazardous items.

(5) When information is not available under paragraphs (a)(1), (a)(2), (a)(3), or (a)(4) of this section, contact the manufacturer, the procuring agency, or your technical staff for assistance in obtaining the MSDS information.

(b) You must verify items with an expired shelf life or reclassify them as hazardous wastes when required by Federal, State, or local environmental laws or regulations.

(c) For transportation of hazardous materials, see 49 CFR parts 171 through 180.

(d) For disposal of hazardous materials, see §§ 102-40.50 through 102-40.120.

(e) Unless authorized by GSA, extremely hazardous property may not be sold unless it is rendered innocuous, mutilated, or otherwise made safe. You should, however, render such property innocuous in a manner so as to preserve the maximum utility or commercial value of the property when possible.

#### § 102-40.180 How do we handle lead-containing paints and items bearing lead-containing paint?

(a) You may transfer, donate, or sell such items in compliance with requirements found in the Consumer Product Safety Commission regulations set forth in 16 CFR part 1303. You must not abandon banned items or their containers. You must destroy them. Any removal (stripping) of lead paint incident to disposal must be accomplished in conformance with Federal regulations and industry guidelines such as those promulgated by the EPA (<http://www.epa.gov>) or OSHA (<http://www.osha.gov>).

(b) If disposal of the items described in paragraph (a) is allowable, the following must be placed on the items:

(1) The following warning:

#### WARNING

Contains Lead. Dried Film of This Paint May be Harmful If Eaten or Chewed.

(2) The following additional statement or its practical equivalent on their labels:

Do not apply on toys and other children's articles, furniture, or interior surfaces of any dwelling or facility which may be occupied or used by children. Do not apply on exterior surfaces of dwelling units, such as window sills, porches, stairs, or railings, to which children may be commonly exposed.

Keep Out of Reach of Children

(c) Donation documentation (including the Standard Form 123) must contain the following certification, or an equivalent certification:

The property requested herein shall be used only as specified in 16 CFR 1303.3 and in no case shall be in contact with children. I, the undersigned, agree the United States shall not be liable for personal injuries to, disabilities of, or death of the donee's employees, or any other person arising from or incident to the donation of this property, its use, or its final disposition; and to hold the United States harmless from and shall indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions or claims of any nature arising from or incident to the donation of this property, its use, or its final disposition.

\_\_\_\_\_  
Name of donee (print or type)

\_\_\_\_\_  
Signature of donee

(d) When selling lead-containing paint or items bearing lead-containing paint, the sales terms and sales documentation must include this certification, or an equivalent certification. Failure to sign the certification where it appears as a sales term may result in the bid being rejected as nonresponsive:

I, the undersigned, certify that I have read and fully comprehend the aforementioned terms and conditions of this sale. I shall comply with the applicable Consumer Product Safety Commission regulations set forth in 16 CFR part 1303 if I am the successful bidder. I further agree the United States shall not be liable for personal injuries to, disabilities of, or death of any persons arising from or incident to the sale of this property, its uses, or its final disposition; and to hold the United States harmless from and shall indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the sale of this property, its use, or its final disposition.

\_\_\_\_\_  
Name of bidder (print or type)

\_\_\_\_\_  
Signature of bidder

#### § 102-40.185 How do we handle medical devices?

(a) Medical devices are subject to the laws and regulations administered by FDA. Provisions of the governing statute, the Federal Food, Drug and Cosmetic Act, appear in 21 U.S.C. 301-399. In summary, the Act prohibits the movement in interstate commerce of medical devices that are adulterated or misbranded (21 U.S.C. 351-352). The Act authorizes FDA to initiate criminal enforcement proceedings against companies and/or individuals responsible for violations of its provisions, and to initiate civil proceedings to seize or enjoin the distribution of such items.

(b) Prescription devices are subject to additional Federal, State, local, and other applicable laws. Federal law requires that prescription devices be in the possession of either: persons lawfully engaged in the manufacture, transportation, storage, or wholesale or retail distribution of such device; or, practitioners licensed by their States. Federal law also requires that prescription devices be sold only to, or on the prescription or order of, a licensed practitioner for use in the course of his or her professional practice, and that the devices are labeled in a specific manner.

(c) Non-Federal recipients must certify in writing that such property will be used, resold or transported in conformance with FDA regulations. Any proposed destruction of medical equipment must be coordinated with local health and sanitation officials.

**§ 102–40.190 How do we handle Munitions List Items (MLIs)?**

(a) Munitions List Items (MLIs) are listed in 22 CFR part 121. A system of demilitarization codes identifies the extent of alteration or destruction necessary when transferring or selling MLIs. The appropriate code is normally assigned to items when they enter the DOD supply system. These items may require demilitarization when issued to any non-DOD entity, and will require Department of State approval and appropriate licensing when exported from the U.S. Refer to DOD 4160.21–M–1 (Change No. 1) for a complete description of the program and the requirements to be followed. The manual is available from the Defense Logistics Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060; or electronically at <http://www.dla.mil/dlaps/dod/416021m/guide.asp>.

(b) When disposing of MLIs, you must perpetuate these demilitarization codes; alert those to whom you are transferring or selling property that the item may require demilitarization; and perform any required demilitarization, or provide any documentation or certifications in accordance with the DOD demilitarization manual, DOD 4160.21–M–1 (Change No. 1).

**§ 102–40.195 How do we handle Commerce Control List Items (CCLIs)?**

(a) Commerce Control List Items (CCLIs) are subject to the controls of 15 CFR parts 738 and 774. Export licenses are required for transfer of items to the countries listed in 15 CFR part 738, Supp. No. 1. CCLIs may also be identified by the demilitarization code assigned to the item in the DOD supply system.

(b) When disposing of CCLIs, you must notify the recipient that the item, may be subject to Department of Commerce export licensing requirements when transported out of the U.S., for reasons of national security, crime control, technology transfer and scarcity of materials. Furthermore:

(1) The recipient must be notified that this notification must pass to all subsequent recipients of the item.

(2) When being sold, completed end-use certificates are required of all offerors or bidders. An end-use certificate is a statement signed by a prospective recipient indicating the intended designation and disposition of CCLIs to be acquired, and acknowledging U.S. export licensing requirements.

(3) All disposal activity must conform to the requirements of 15 CFR parts 730 through 774.

**§ 102–40.200 How do we handle national stockpile material?**

In accordance with 40 U.S.C. 113(e)(6), materials acquired for the national stockpile, the supplemental stockpile, or materials or equipment acquired under section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093), are not covered by the Federal Management Regulation. The policy covering the disposal of these assets is found at 50 U.S.C. 98d and 98e.

**§ 102–40.205 How do we handle Nuclear Regulatory Commission-controlled materials?**

The Nuclear Regulatory Commission (NRC) has exclusive control over licensing, use, transfer, and disposition of NRC-controlled materials (see Chapter 1 of 10 CFR). Direct all inquiries to the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

**§ 102–40.210 How do we handle ozone depleting substances?**

The Clean Air Act, as amended (42 U.S.C. Subchapter VI) requires certain substances which have destructive effects on the ozone layer not be vented to the environment and be phased out from production and use over an extended period of time. An overview of laws and regulations covering the use and disposal of ozone depleting substances can be found at the EPA website: [www.epa.gov/ozone](http://www.epa.gov/ozone).

**§ 102–40.215 How do we handle polychlorinated biphenyls (PCBs)?**

(a) In accordance with EPA regulations (40 CFR 761.1 and 761.3), property defined by EPA as excluded polychlorinated biphenyl (PCB) products may be transferred,

donated, or sold in accordance with parts 102–36, 102–37, or 102–38 of this subchapter B. For additional guidance on PCB classifications and other Federal restrictions, contact: Director, National Program Chemicals Division (NPCD), (7404), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Avenue, NW., Washington, DC or visit the EPA's website at: <http://www.epa.gov/epahome/lawregs.htm>. You should also contact State regulatory agencies since some States regulate at a stricter level than the Federal Government.

(b) Property defined by the EPA in 40 CFR 761.3 as either a PCB item or PCB must be labeled or marked with a warning statement that the item contains PCB and must be handled and disposed of in accordance with EPA regulations (40 CFR part 761), Department of Transportation (DOT) regulations (49 CFR parts 171 through 180), and applicable State laws.

(1) PCB items and PCBs may be transferred or donated, provided:

(i) The items are intact, non-leaking, and totally enclosed.

(ii) The recipient provides to you the specific authorization covering the use of this item from 40 CFR part 761

(iii) The recipient certifies to you that the item will be handled and disposed of in accordance with EPA regulation 40 CFR part 761, DOT regulation 49 CFR parts 171 through 180, and applicable Federal and State laws.

(2) PCB and PCB items not transferred or donated must be disposed of under EPA regulations. You must not sell any PCB or PCB item unless 40 CFR part 761 authorizes the sale and continued use of the specific item.

(c) You must not transfer, donate, or sell items with an unknown level of concentrations of PCBs.

(d) Property containing PCBs and PCB items should be labeled with a warning such as the following:

Caution— This item contains PCBs (polychlorinated biphenyls), a toxic environmental contaminant requiring special handling and disposal in accordance with the U.S. Environmental Protection Agency regulation (40 CFR part 761), applicable State laws, and 41 CFR 102–40.215. For proper disposal information, contact the nearest EPA office. For transportation requirements, see 49 CFR parts 171 through 180.

(e) The State Agencies for Surplus Property must have the following certification, or an equivalent certification, on all transfer paperwork where PCBs are involved.

**WARNING AND CERTIFICATION**

The undersigned donee is aware that the item(s) listed as containing polychlorinated biphenyls (PCBs), a toxic environmental contaminant, require(s) special handling and

disposal in accordance with U.S. Environmental Protection Agency regulation (40 CFR part 761) and U.S. Department of Transportation regulations codified in 49 CFR parts 171 through 180. The donee certifies that this item (or these items) will be handled and disposed of in accordance with applicable Federal statutes and regulations and applicable State laws.

\_\_\_\_\_  
Name of donee (print or type)

\_\_\_\_\_  
Signature of donee

**§ 102–40.220 How do we handle precious metals?**

(a) You must identify activities in your organization that generate precious metals; recover precious metals created from work processes, such as photographic film developing, and identify equipment or materials containing recoverable precious metals; and adequately control precious metals in your custody. You may contact the Defense Logistics Service Center if you wish to participate in the DOD precious metals recovery program. You may acquire recovered fine precious metals as Government Furnished Material or for other authorized uses by submitting a request to the Commander, Defense Industrial Supply Center (DISC), Attention: DISC-OIBA/YC, 700 Robbins Avenue, Philadelphia, Pennsylvania 19111–5096.

(b) Gold will be sold in accordance with this subpart and part 102–38 of the Federal Management Regulation.

(c) Sales of gold will be processed as follows:

- (1) Use the sealed bid method of sale;
- (2) Require a 20 percent bid deposit;
- (3) Certify all forms of bid deposit and payments; and
- (4) Include in the invitation for bids only gold and such other precious and semiprecious materials as may be available for sale at that time.

**§ 102–40.225 How do we handle vehicles not suitable for highway use?**

Some Government-owned vehicles might receive such extensive damage as a result of an accident, event, or other activity that makes them no longer suitable for donation or sale for highway use. Such vehicles may only be donated or sold for salvage or scrap. Prior to disposal of damaged vehicles, you must evaluate known damage to determine their suitability for continued highway use. When a determination is made that a vehicle is unfit for continued highway use, you must include such information in the property record and subsequent reports. When selling such vehicles, provide an appropriate warning statement in the solicitation regarding vehicle condition that the vehicle cannot be titled for highway use. Use Standard Form 97A, Certificate to Obtain a Non-Repairable or Salvage Certificate when donating or selling vehicles not suitable for highway use. See FMR 102–34.315 if the vehicle is

not designed or not legal for operation on highways.

**Appendix A—Federal Supply Classification (FSC) Composed Predominantly of Hazardous Items**

FSC	Nomenclature
6810	Chemicals
6820	Dyes
6830	Gases: Compressed & liquefied
6840	Pest control agents & disinfectants
6850	Misc. chemical specialties
7930	Cleaning & polishing compounds & preparations
8010	Paints, dopes, varnishes, & related products
8030	Preservative & sealing compounds
8040	Adhesives
9110	Fuels, solid
9130	Liquid propellants & fuels, petroleum case
9135	Liquid propellant fuels & oxidizers, chemical base
9140	Fuel oils
9150	Oils & greases: cutting, lubricating, & hydraulic
9160	Misc. waxes, oils, & fats

**Appendix B—Federal Supply Classes and Groups Which Contain a Significant Number of Hazardous Items**

**Note:** If an item is determined to be hazardous material as defined in § 102–40.30, a Material Safety Data Sheet (or equivalent) should accompany the item even though the Federal Supply Class or Group is not listed in this table.

Federal Supply Class/Group	Title	Examples of Hazardous materials requiring identification
1370 .....	Pyrotechnics .....	Warning fuse, fire starter
1375 .....	Demolition materials .....	Explosive device
2520 .....	Vehicular power transmission components .....	Items containing asbestos transmission components
2530 .....	Vehicular brake, steering, axle, wheel, and track components.	Items containing asbestos
2540 .....	Vehicular furniture and accessories .....	Items containing asbestos
2640 .....	Tire rebuilding and tire and tube repair materials .....	Items containing flammable or toxic compounds
Group 28 ....	Engines, turbines, and components .....	Engine valves containing metallic sodium
Group 29 ....	Engine accessories .....	Engine valves containing metallic sodium
Group 30 ....	Mechanical power transmission equipment .....	Equipment containing hazardous hydraulic fluid including PCBs
Group 34 ....	Metalworking machinery .....	Equipment containing hazardous hydraulic fluids including PCBs
3433 .....	Gas welding, heat cutting, and metalizing equipment .....	Compressed gases
3439 .....	Miscellaneous welding, soldering and brazing supplies and accessories.	Hazardous items such as cleaners, acids, flux and supplies that contain or produce hazardous fumes
3610 .....	Printing, duplication, and bookbinding equipment .....	Flammable or toxic lithographic solutions
3655 .....	Gas generating and dispensing systems, fixed or mobile ....	Items that produce hazardous fumes
3680 .....	Foundry machinery, related equipment and supplies .....	Flammable or toxic casting compounds
4240 .....	Safety and rescue equipment .....	Items which involve oxygen, or compressed gases, or contain emitting charges
5610 .....	Mineral construction materials, bulk .....	Hazardous items such as cutback asphalt, deck and floor covering, deck and surface underlay compound, sealing compound, flight deck compound
5660 .....	Wallboard, building paper, and thermal insulation materials	Asbestos cloth which has loose fibers or particles that may become airborne and materials containing formaldehyde
5820 .....	Radio and television communication equipment, except airborne.	Circuit cooler items that contain gases that are regarded as hazardous to the earth's ozone layer
5835 .....	Sound recording and reproducing equipment .....	Recording tape cleaners that contain hazardous cleaning fluids
5910 .....	Capacitors .....	Items that contain polychlorinated biphenyls (PCBS) or sulfuric acid
5915 .....	Filters and networks .....	Items that contain polychlorinated biphenyls (PCBs)

Federal Supply Class/Group	Title	Examples of Hazardous materials requiring identification
5920 .....	Fuses and lighting arresters .....	Items containing radioactive material
5925 .....	Circuit breakers .....	Items containing radioactive material
5930 .....	Switches .....	Items containing radioactive material
5935 .....	Connectors, electrical .....	Kits that contain flammable chemicals
5950 .....	Coils and transformers .....	Items containing polychlorinated biphenyls (PCBs)
5960 .....	Electron tubes and associated hardware .....	Tubes which contain radioactive isotopes and require warning labels and magnetron tubes which require special precautions when being prepared for air shipment
5965 .....	Headsets, handsets, microphones, and speakers .....	Items containing magnetic material
5970 .....	Electrical insulators and insulating materials .....	Items containing flammable solvents
5975 .....	Electrical hardware and supplies .....	Items containing asbestos
5985 .....	Antennas, waveguides, and related equipment .....	Kits that contain flammable chemicals
5999 .....	Miscellaneous electrical and oxide electronic components ..	Contact plates that contain beryllium
Group 61 ...	Electric wire and power and distribution equipment .....	Power factor capacitors containing PCBs
6120 .....	Transformers: Distribution and power station .....	Transformers containing PCBs
6135 .....	Batteries, primary .....	Lead-acid, lithium and mercury batteries and alkaline (with electrolyte)
6140 .....	Batteries, secondary .....	Items that are wet or moist containing corrosive or other hazardous compounds
6145 .....	Wire and cable, electrical .....	Insulated wire containing asbestos
6220 .....	Electric vehicular lights and fixtures .....	Items that contain mercury
6230 .....	Electric portable and hand lighting equipment .....	Items that contain wet batteries
6240 .....	Electric lamps .....	Items that contain mercury
6260 .....	Nonelectrical lighting fixtures .....	Items that contain mercury
6350 .....	Miscellaneous signal and security detection systems .....	Items that contain wet batteries or radioactive material
6505 .....	Drugs, biologicals and official reagents .....	Hazardous items as defined in Sec. 102-40.30
6508 .....	Medicated cosmetics and toiletries .....	Hazardous items as defined in Sec. 102-40.30, subject to DOT Hazardous Materials Regulations
6510 .....	Surgical dressing materials .....	Items containing flammable solvents
6520 .....	Dental instruments, equipment, and supplies .....	Items containing flammable solvents, mercury, or asbestos
6525 .....	X-ray equipment and supplies: medical, dental, veterinary ..	Items containing hazardous chemicals, solvents
6625 .....	Electrical and electronic properties measuring and testing instruments.	Items containing radioactive materials
6640 .....	Laboratory equipment and supplies .....	Items containing flammable compounds, mercury, or asbestos
6685 .....	Pressure, temperature, and humidity and measuring and controlling instruments.	Items containing mercury or compressed gases
6740 .....	Photographic .....	Items containing radioactive compounds
6750 .....	Photographic supplies .....	Items containing hazardous chemicals, solvents, thinners, and cements
6780 .....	Photographic sets, kits and outfits .....	Items containing hazardous chemicals, solvents, thinners, and cements
7360 .....	Sets, kits, and outfits; food preparation and serving .....	Items containing compressed gasses such as fire extinguishers
7510 .....	Office supplies .....	Hazardous items, such as thinners, cleaning fluids, flammable inks, and varnishes
8405 .....	Outerwear, men's .....	Maintenance kits containing flammable solvents
8410 .....	Outerwear, women's .....	Maintenance kits containing flammable solvents
8415 .....	Clothing, special purpose .....	Maintenance kits containing flammable solvents
8465 .....	Individual equipment .....	Maintenance kits containing flammable solvents
8510 .....	Perfumes, toilet preparations, and powders .....	Shipping containers, and pressurized containers with flammable or nonflammable propellants
8520 .....	Toilet soap, shaving preparations, and dentifrices .....	Shipping containers, and pressurized containers with flammable or nonflammable propellants
8720 .....	Fertilizers .....	Items containing weed and pest control or other harmful ingredients or because of their composition, are hazardous
9390 .....	Miscellaneous fabricated nonmetallic materials .....	Items containing flammable solvents or asbestos
9920 .....	Smokers' articles and matches .....	Lighter fuel and matches only
9930 .....	Memorials; cemeteries and mortuary equipment and supplies.	Items containing formaldehyde or its solutions

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[I.D. 042307E]

**Mid-Atlantic Fishery Management Council; Public Hearings; Correction**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public hearings; correction.

**SUMMARY:** The Mid-Atlantic Fishery Management Council will hold hearings to allow for public input on

Amendment 9 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fishery (FMP).

**DATES:** Written comments will be accepted until May 27, 2007. All meetings begin at 7 p.m.

**ADDRESSES:** Comments may be submitted through any of the following methods:

- Mail: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware 19904.

- FAX: 302-674-5399.

- E-mail: [info@mafmc.org](mailto:info@mafmc.org). Please indicate the subject as SMB 9 Comments.

- Federal e-Rulemaking Portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management

Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware 19904, 302-674-2331, ext. 19.

**SUPPLEMENTARY INFORMATION:**

**Need for Correction**

On April 30, 2007, a document announcing public hearings on Amendment 9 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fishery (FMP) was published (FR Doc. E7-8197). That document incorrectly listed the meeting times for the hearings. This document corrects the meeting times see **DATES** section. All other information remains unchanged and will not be repeated in this correction.

Dated: May 1, 2007.

**Tracey Thompson,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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