

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-42 and 101-43

[FPMR Amendment H-]

RIN 3090-AG80

Donation of Certain Federal Surplus Firearms to State or Local Law Enforcement Activities

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to amend the Federal Property Management Regulations (FPMR) to remove the prohibition on donation of surplus Federal firearms to allow donations to State and local law enforcement activities. This change, the result of interagency meetings with Federal law enforcement agencies in conjunction with the Department of Justice, will enable certain usable firearms acquired for Federal law enforcement purposes to continue serving a law enforcement role. This proposed rule establishes a centralized activity within GSA to coordinate all firearms transfers under the FPMR and specifies that donated firearms are restricted in perpetuity and may not be transferred except in accordance with this rule.

DATES: Comments must be submitted by January 8, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Written comments should be sent to: Ms. Sharon Kiser, Regulatory Secretariat (MVR), Office of Governmentwide Policy, General Services Administration 1800 F Street, NW., Washington, DC 20405.

E-mail comments may be sent to RIN.3090-AG80@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Martha Caswell, Director, Personal Property Management Policy Division (MTP), telephone (202) 501-3846.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866

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

B. Regulatory Flexibility Act

The proposed rule is not expected to 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.*

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the regulation 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. 501, *et seq.*

D. Small Business Reform Act

This 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 and 101-43

Government property management, Hazardous materials, Reporting and recordkeeping requirements, Surplus Government property.

For the reasons set forth in the preamble, 41 CFR Parts 101-42 and 101-43 are proposed to be amended as follows:

1. The authority citation for Parts 101-42 and 101-43 continues to read as follows:

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

PART 101-42—UTILIZATION AND DISPOSAL OF HAZARDOUS MATERIALS AND CERTAIN CATEGORIES OF PROPERTY

2. Section 101-42.1102-10 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101-42.1102-10 Firearms.

(a) *Utilization requirements.* (1) Reports of excess firearms and requests for their transfer must be submitted to the: General Services Administration (7FP-8), Denver, CO 80225-0506.

(2) Firearms may be transferred only to those Federal agencies authorized to acquire firearms for official use. Such transfers must be executed under § 101-43.309-5 and, when applicable, § 101-42.1102-8(b). Additional written justification from the requesting agency may be required.

(b) *Donation requirements.* (1) Only hand guns, rifles, shotguns, individual light automatic weapons, and rifle and shoulder fired grenade launchers in "used—poor" or better condition, as defined in § 101-43.4801(e), may be offered by GSA (7FP-8) to State agencies for donation to State and local public agencies for law enforcement purposes only. Donations are limited to only those law enforcement activities 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.

(2) Each SF 123 submitted to GSA must be accompanied by a conditional transfer document, signed by both the intended donee and the State agency, and containing the special terms, conditions, and restrictions prescribed by GSA.

(3) The restrictions on donated firearms shall be in perpetuity, and they may not be released by the State agency without prior written approval from GSA. All firearms must be destroyed by either the donee or the State agency when they are no longer needed. Destruction must be such that the firearms are rendered completely inoperable and incapable of being made operable for any purpose except for the recovery of basic material content in accordance with paragraph (c) of this section. The donee or the State agency, as applicable, must state in writing that the firearms were so destroyed.

(4) Surplus firearms approved for donation must be shipped or transported directly from the holding Federal agency to the donee and may not be stored in the State agency warehouse; or, arrangements may be made by the State agency for the designated donee to make a direct pickup at the holding agency.

(5) Firearm ammunition may not be donated.

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PART 101-43—UTILIZATION OF PERSONAL PROPERTY

3. Section 101-43.304-2 is amended by revising paragraph (b) to read as follows:

§ 101-43.304-2 Form and distribution of reports.

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(b) The SF 120 and SF 120A must be submitted in an original and three copies. Electronic reporting must be as specified and approved by GSA. Reports must be directed to the GSA regional office for the region in which the property is located (see § 101-43.4802). However, reports of fixed-wing and rotary-wing aircraft must be submitted to the General Services Administration (9FB), San Francisco, CA 94015, and reports of excess firearms must be submitted to the General Services Administration (7FP-8), Denver, CO 80225-0506.

4. Section 101-43.305 is amended by revising paragraph (b)(2) to read as follows:

§ 101–43.305 Property not required to be formally reported.

* * * * *

(b) * * *

(2) Property dangerous to public health and safety, except firearms;

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5. Section 101–43.4801 is revised to read as follows:

§ 101–43.4801 Excess personal property reporting requirements.

(a) The table shown in paragraph (d) of this section shows the excess personal property Federal supply groups (FSG) and classes (FSC) comprising reportable property. Property in these groups and classes must be reported to GSA when the following disposal condition code and dollar threshold criteria are met:

(1) With the exception of aircraft and firearms, the disposal condition code as defined in paragraph (e) of this section is “salvage” or better. In accordance

with § 101–43.304–2, fixed-wing and rotary-wing aircraft, airframe structural components, and aircraft engines, as specified in paragraph (b) of this section, are reportable regardless of condition; and firearms, as specified in paragraph (c) of this section, in “repairs required—poor” or better condition, are reportable.

(2) The unit cost, measured in acquisition dollars, is \$5,000 or more.

(b) With respect to aircraft and aircraft components and accessories:

(1) As indicated in the table in paragraph (d) of this section, line items in Federal supply classes 1510, 1520, 1560, 2810, 2840, or any class in FSG 16 must be reported. In agencies other than the Department of Defense (DOD), all line items in these classes must be reported regardless of condition code when dollar criteria are met. For the DOD, aircraft in FSC 1510 which are in the Cargo/Transport, Observation, Anti-sub, Trainer, or Utility series, all aircraft

in FSC 1520, and line items in other classes which are components of these aircraft must be reported regardless of condition code when dollar criteria are met.

(2) Items in Federal supply classes 1510 and 1520 held by DOD or other agencies must be reported to the: General Services Administration (9FB), San Francisco, California 94102.

(c) Executive agencies must report the following firearms in “used—poor” or better condition, as defined in § 101–43.4801(e), regardless of unit cost, to the: General Services Administration (7FP–8), Denver, CO 80225–0506.

(1) Handguns, rifles, shotguns, and individual light automatic weapons less than 50 caliber in FSC 1005, and

(2) Rifle and shoulder fired grenade launchers in FSC 1010.

(d) The following table shows Federal supply groups and classes which comprise reportable property:

FSG	FSC	Noun name
10	1005	Guns, through 30mm.
	1010	Guns, over 30 mm up to 75 mm.
15	1510	Aircraft, fixed wing.
	1520	Aircraft, rotary wing.
	1560	Airframe structural components.
16	All	Aircraft component and accessories.
18	All	Space vehicles.
19	All	Ships, small craft, pontoons, and floating docks (All but vessels 1500 gross tons and over).
22	All	Railway equipment.
23	All	Ground effect vehicles, motor vehicles, trailers, and cycles.
24	All	Tractors.
28	2805	Gasoline reciprocating engines, except aircraft; & components.
	2810	Gasoline reciprocating engines, aircraft prime mover; and components.
	2815	Diesel engines and components.
	2840	Gas turbines and jet engines, aircraft, prime moving; and components.
32	All	Woodworking machinery and equipment.
34	All	Metalworking machinery
35	All	Service and trade equipment.
36	All	Special industry machinery (All but 3690 Specialized ammunition and ordnance machinery and related equipment).
37	All	Agricultural machinery and equipment.
38	All	Construction, mining, excavating, and highway maintenance equipment.
39	All	Materials handling equipment.
42	All	Fire fighting, rescue, and safety equipment; and environmental protection equipment and materials.
43	All	Pumps and compressors.
49	4910	Motor vehicle maintenance and repair shop specialized equipment.
	4920	Aircraft maintenance and repair shop specialized equipment.
	4930	Lubrication and fuel dispensing equipment.
	4935	Guided missile maintenance, repair, and checkout specialized equipment.
	4940	Miscellaneous maintenance and repair shop specialized equipment.
	4960	Space vehicle maintenance, repair, and checkout specialized equipment.
54	All	Prefabricated structures and scaffolding.
61	All	Electric wire, and power and distribution equipment.
70	All	Automatic Data Processing Equipment (including firmware), software, supplies, and support equipment.
71	All	Furniture.
73	All	Food preparation and serving equipment.

(e) The appropriate disposal condition code from the table below must be assigned to each item record, report, or listing of excess personal property:

Disposal condition code	Brief definition	Expanded definition
1	Unused—good	Unused property that is usable without repairs and identical or interchangeable with new items from normal supply sources.
2	Unused—fair	Unused property that is usable without repairs, but is deteriorated or damaged to the extent that utility is somewhat impaired.
3	Unused—poor	Unused property that is usable without repairs, but is considerably deteriorated or damaged. Enough utility remains to classify the property better than salvage.
4	Used—good	Used property that is usable without repairs and most of its useful life remains.
5	Used—fair	Used property that is usable without repairs, but is somewhat worn or deteriorated and may soon require repairs.
6	Used—poor	Used property that may be used without repairs, but is considerably worn or deteriorated to the degree that remaining utility is limited or major repairs will soon be required.
7	Repairs required—good	Required repairs are minor and should not exceed 15 percent of original acquisition cost.
8	Repairs required—fair	Required repairs are considerable and are estimated to range from 16 percent to 40 percent of original acquisition cost.
9	Repairs required—poor	Required repairs are major because property is badly damaged, worn, or deteriorated, and are estimated to range from 41 percent to 65 percent of original acquisition cost.
X	Salvage	Property has some value in excess of its basic material content, but repair or rehabilitation to use for the originally intended purpose is clearly impractical. Repair for any use would exceed 65 percent of the original acquisition cost.
S	Scrap	Material that has no value except for its basic material content.

Dated: December 3, 1998.

Donald J. Suda,

*Acting Associate Administrator, Office of
Governmentwide Policy.*

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