

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–42, 101–45, and 102–40

[FMR Change–2015–01; FPMR Case 2003–101–1; FMR Case 2003–102–4; Docket 2007–0001; Sequence 6]

RIN 3090–AH21

Federal Management Regulation; Utilization and Disposition of Personal Property With Special Handling Requirements

AGENCY: Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is amending the Federal Property Management Regulations (FPMR) by revising coverage regarding hazardous materials and certain categories of personal property, removing existing regulatory provisions from the FPMR, and moving coverage into the Federal Management Regulation (FMR). Upon issuance of this final rule, the FMR will address all types of personal property requiring special handling. A cross-reference is added to the FPMR to direct readers to the coverage in the FMR.

DATES: *Effective:* This final rule is effective February 10, 2015.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, 1800 F Street NW., Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Robert Holcombe, Director, Personal Property Policy (MAD), at (202) 501–3828. Please cite FPMR Case 2003–101–1.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule updates, streamlines, and clarifies content currently in FPMR part 101–42 and moves it into the FMR as part 102–40. This final rule also removes FPMR sections 101–45.001, 101–45.002, and 101–45.004. The subject matter of these sections is addressed in FMR sections 102–40.195 (disposal of items requiring demilitarization); 102–40.50 (handling of property reported to GSA so as to preserve civilian utility as far as possible); 102–40.225 (disposal of precious metals); and 102–40.140 (disposal of all-terrain vehicles (ATV)).

In addition, this final rule removes FPMR section 101–45.003 regarding vehicle reconditioning. This section

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

The final 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 regulation.

The amended FMR part 102–40 includes the following specific changes from FPMR part 101–42:

1. Section 102–40.30 revises definitions previously included in FPMR part 101–42, and includes the following terms and definitions not found in section 101–42.001:
 - (a) Ammunition
 - (b) Ammunition Components
 - (c) Commerce Control List Item (CCLI)
 - (d) Demilitarization
 - (e) Electronic Product
 - (f) Safety Data Sheet (SDS)
 - (g) Medical device
 - (h) Munitions List Item
 - (i) Perishable
 - (j) Precious metals
 - (k) Radiation Safety Performance Standards
 - (l) Universal Waste(s)

2. Section 102–40.55 introduces the requirements for the disposal of perishables.

3. Section 102–40.100 revises and replaces FPMR section 101–42.401, Sales responsibilities for hazardous material, by allowing agencies to sell property with special handling requirements through Sales Centers.

4. Section 102–40.140 updates the policy on disposal of all-terrain vehicles (ATVs) and includes a certification statement to be used when donating ATVs.

5. Section 102–40.145 includes the topic of disposal of ammunition. The disposition of ammunition and ammunition components are combined in new part 102–40. The policy contained in part 102–40 allows for the sale of non-expended ammunition and ammunition components (both expended and non-expended) only to companies licensed to perform manufacturing/remanufacturing, or companies allowed to recover basic material content of the ammunition or ammunition components in accordance with Federal, state, and local laws and regulations. In addition to being sold as just described, expended ammunition cartridge cases may also be transferred or donated when the recipient certifies

that the cartridge case will be reloaded and used only for law enforcement purposes.

6. Section 102–40.150 provides the requirements for handling live animals and plants. Live animals and plants should be reported to GSA for transfer, donation, or sale, except when specific exceptions apply.

7. Section 102–40.165 is revised to remove obsolete requirements for a letter of clearance by the Food and Drug Administration (FDA) for the donation of surplus drugs, biologicals, and reagents to the state agency or designated donee and removing the requirement for the state agency or designated donee to obtain samples of surplus drugs, biologicals, and reagents from the holding agency for laboratory examination by the FDA.

8. Section 102–40.175 is revised to align policy on the disposal of surplus firearms with policy contained in part 102–36, where GSA may donate certain classes of surplus firearms to state and local government activities whose primary function is the enforcement of applicable Federal, state, and/or local laws whose compensated law enforcement officers have the authority to apprehend and arrest. It also aligns with the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) policy for the disposal of firearms subject to the National Firearms Act. The definition of "firearm" in Section 102–40.30 was revised to reflect the definition in 18 U.S.C. 921(a).

9. Section 102–40.190 has procedures for the disposal of medical devices. Medical devices are subject to the laws and regulations administered by the FDA.

10. Section 102–40.200 has special requirements for handling Commerce Control List Items.

11. Section 102.40–205 provides guidance on where to find procedures for handling national stockpile material. Materials acquired for the national stockpile, the supplemental stockpile, or material or equipment acquired under Section 303 of the Defense Production Act of 1950, as amended, are not covered by the FMR.

12. Section 102–40.215 provides the provision for handling ozone depleting substances (ODSs). An overview of laws and regulations covering the use and disposal of ODSs is found at the Environmental Protection Agency (EPA) Web site.

13. Section 102–40.225 includes a revision to the policy regarding the sale of precious metals. The policy requiring precious metals to be sold only under a sealed bid sale has been removed, and

the language to require a bid deposit has been relaxed to remove prescriptive restrictions.

14. Section 102–40.230 provides for the handling of universal wastes (UW). An overview of the laws and regulations covering the use and disposal of UWs is found at the EPA Web site (<http://www.epa.gov/wastes/hazard/wastetypes/universal/>).

15. Section 102.40–235 prescribes the policy for the disposal of Government-owned vehicles not suitable for highway use. Such vehicles may only be disposed of as salvage or scrap, either by donation or sale.

16. Part 102–40 also 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 sections 102–40.195 (disposal of items requiring demilitarization); 102–40.50 (handling of property reported to GSA so as to preserve civilian utility as far as possible); 102–40.225 (disposal of precious metals); and 102–40.140 (disposal of ATVs).

Governmentwide regulations that migrate from the FPMR to the FMR are intended to be less prescriptive. For part 102–40, that means that the “how” of a task may not be specified in any detail, unless the specific task is critical for safety, security or the protection of the environment.

A proposed rule was published in the **Federal Register** on May 7, 2007 (72 FR 25723), to allow public comment for a period of 30 days. There were seven responses to this proposed rule, many of which had multiple comments and/or suggestions. All comments from agencies were included in this final rule. Comments include: A better description of how to dispose of ODSs (section 102–40.215 was updated); a clarification as to how this final rule relates to the revision of FMR part 102–38 regarding sale of Federal assets (section 102–40.100 was updated); an updated and more definitive policy related to the disposal of electronic products (a definition was added to section 102–40.30, and in section 102–40.170, the policy was strengthened); and a clarification regarding the disposal of spent ammunition cartridges (section 102–40.145 was updated). In addition, since the publication of the proposed rule, GSA continued its internal review which prompted additional changes that help to clarify policy or ensure the policy contained in this final rule is clear and consistent

with other Federal law and regulations, and the policies contained in the current FPMR. Official comments may be viewed at www.regulations.gov.

B. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This final rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2) because it applies to agency management and public property.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final 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 final rule is exempt from Congressional review under 5 U.S.C. 801 since it does not substantially affect the rights or obligations of non-agency parties.

List of Subjects in 41 CFR Parts 101–42, 101–45, and 102–40

Government property management.

Dated: January 28, 2015.

Dan Tangherlini,
Administrator of General Services.

For the reasons set forth in the Preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

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

- 1. Revise the citation authority for part 101–42 to read as follows:

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

- 2. Revise the heading for part 101–42 as set forth above.

- 3. Revise § 101–42.000 to read as follows:

§ 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 102–40 (41 CFR part 102–40), Disposition of Personal Property With Special Handling Requirements.

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

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

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

- 5. Amend § 101–45.000 by adding a second sentence to the paragraph text to read as follows:

§ 101–45.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

* * * For information on demilitarization and decontamination; gold; and all-terrain vehicles previously contained in this part see FMR part 102–40 (41 CFR part 102–40).

§ 101–45.003 [Removed]

- 6. Section 101–45.003 is removed.

CHAPTER 102—FEDERAL MANAGEMENT REGULATIONS

SUBCHAPTER B—PERSONAL PROPERTY

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

PART 102–40—UTILIZATION AND 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 May we reassign hazardous materials?

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

102–40.70 Who is responsible for the care and handling of hazardous materials and property requiring special handling?

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

102–40.75 What must we do when reporting excess personal property with special handling requirements?

102–40.80 Is personal property requiring special handling available for transfer or donation?

102–40.85 Is donee certification required for the donation of personal property requiring special handling?

102–40.90 Must we establish additional requirements for the inspection of personal property with special handling requirements?

102–40.95 Who pays for the costs incident to the transfer of personal property with special handling requirements?

Subpart D—Sale of Personal Property With Special Handling Requirements

102–40.100 May we sell personal property with special handling requirements?

102–40.105 May we use any sales method to sell personal property that requires special handling?

102–40.110 What must we include in the sales terms and conditions when selling personal property with special handling requirements?

102–40.115 Are certifications required from the purchaser when selling personal property with special handling requirements?

102–40.120 What precautions must we take during the sales process for personal property requiring special handling?

102–40.125 May we dispose of personal property requiring special handling by abandonment or destruction?

Subpart E—Categories of Personal Property With Special Handling Requirements

102–40.130 What categories of personal property require special handling?

102–40.135 How do we manage acid-contaminated and explosive-contaminated property?

102–40.140 How do we handle all-terrain vehicles (ATVs)?

102–40.145 How do we handle ammunition and ammunition components?

102–40.150 How do we handle animals and plants?

102–40.155 How do we handle asbestos?

102–40.160 How do we handle controlled substances?

102–40.165 How do we handle drugs, biologicals, and reagents other than controlled substances?

102–40.170 How do we handle electronic products?

102–40.175 How do we handle firearms?

102–40.180 How do we handle hazardous materials?

102–40.185 How do we handle lead-containing paints and items bearing lead-containing paint?

102–40.190 How do we handle medical devices?

102–40.195 How do we handle Munitions List Items (MLIs)?

102–40.200 How do we handle Commerce Control List Items (CCLIs)?

102–40.205 How do we handle national stockpile material?

102–40.210 How do we handle Nuclear Regulatory Commission-controlled materials?

102–40.215 How do we handle ozone depleting substances (ODSs)?

102–40.220 How do we handle polychlorinated biphenyls (PCBs)?

102–40.225 How do we handle precious metals?

102–40.230 How do we handle universal waste(s) (UWs)?

102–40.235 How do we handle motor vehicles not suitable for highway use?

Appendix A to Part 102–40—Federal Supply Classes (FSC) Composed Predominantly of Hazardous Items

Appendix B to Part 102–40—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 regarding the utilization, transfer, donation, sale, and other disposal of Government personal property with special handling requirements (*i.e.*, hazardous materials, dangerous property, etc.) 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 regarding the disposal of personal property located

outside of these areas, see §§ 102–36.380 through 102–36.400 of this subchapter; however, the disposal of personal property located outside of these areas should conform to the provisions in this part, whenever feasible, in the interest of promoting safety, security, and environmental stewardship.

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

40 U.S.C. 121(c) 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 specific, separate statutory authority to do otherwise. Also, pursuant to 40 U.S.C. 549(b)(1), state agencies for surplus property (SASPs) must comply with the provisions of this part related to the donation of surplus property with special handling requirements. 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 executive agency, or other entity using these regulations, unless otherwise indicated.

§ 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 this chapter 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 as defined in 18 U.S.C. 921(a)(17), means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

Ammunition components means the individual parts of ammunition, including cartridge cases, primers, bullets/projectiles, and propellant powder.

Biologicals means hazardous materials associated with the products and operations of applied biology and/or biochemistry, especially serums,

vaccines, etc., produced from microorganisms.

Certified electronic product means any electronic product which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration (FDA) under 21 CFR part 1020.

Commerce Control List Item (CCLI) means property identified on the Commerce Control List (15 CFR part 774, supp. 1) subject to export controls under the Export Administration Act of 1979, as amended (50 App. U.S.C. 2401–2420) and implemented by the Export Administration Regulations (15 CFR part 730). Items may be placed on the list for reasons including, but not limited to, 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 contained in 21 CFR part 1308; or

(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, *et seq.*); 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, to be 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.

Electronic Product means any item powered by electricity that has logic circuitry enabling the item to perform its intended function.

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 material 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 life and property and which usually have specialized uses under controlled conditions. It is also material which have been determined by the holding agency to endanger public health and safety or the environment if released to the general public.

Firearm, as defined in 18 U.S.C. 921(a)(3), means:

(1) Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

(2) The frame or receiver of any such weapon;

(3) Any firearm muffler or firearm silencer; or

(4) Any destructive device. Such term does not include an antique firearm.

Hazardous material means property that is deemed a *hazardous material*, chemical substance or mixture, or hazardous waste under the Federal *hazardous materials* transportation law (49 U.S.C. 5101, *et seq.*), the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901, *et seq.*), or the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601, *et seq.*). Generally, *hazardous materials* have one or more of the following characteristics:

(1) Are carcinogens (according to Occupational Safety and Health Administration (OSHA) regulations at 29 CFR part 1910), toxic or highly toxic agents, reproductive toxins, irritants, corrosives, hepatotoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic system, and agents that damage the lungs, skin, eyes, or mucous membranes;

(2) Are combustible liquids, compressed gases, explosives, flammable liquids, flammable solids, organic peroxides, oxidizers, pyrophorics, unstable (reactive) or water-reactive;

(3) Are radioactive to the extent it requires special handling;

(4) Identify hazards on associated SDS, MSDS, or HMIS documentation;

(5) Possess 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.

(6) Materials that, in the course of normal handling, use or storage, may produce or release dusts, gases, fumes, vapors, mists or smoke having any of the above characteristics.

Hazardous waste means those materials or substances, the handling and disposal of which are governed by 40 CFR part 261. 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. Hazardous materials having an expired shelf life should be reclassified as *hazardous waste* if required by Federal and/or state environmental laws or regulations. Before reclassification, the shelf life may be extended if supported by results of tests and recertification performed by authorized personnel in accordance with applicable regulations.

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.

Medical device means any health-care product that does not achieve its principal 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, *et seq.*). Potential hazards of these devices include chemical and heavy metal hazards, and biohazards.

Munitions List Item (MLI) means property and related technical data designated as defense articles and defense services pursuant to sections 2778 and 2794(7) of the Arms Export Control Act (22 U.S.C. 2778 and 2794(7)).

Noncertified Electronic Product means any electronic product for which there is an applicable radiation safety performance standard prescribed or hereafter prescribed by the FDA under 21 CFR part 1020, and which the manufacturer has not certified as meeting such standard. The non-certification may be due to either:

(1) Manufacture of the product before the effective date of the standard; or

(2) The product was exempted from the applicable standard and is so labeled.

Nuclear Regulatory Commission-Controlled Material means material subject to the controls of the Nuclear

Regulatory Commission (NRC) pursuant to the Energy Reorganization Act of 1974. 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, determined 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, spoilage or death, 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).

Radiation Safety Performance Standards. Certain electronic items or components emitting hazardous electronic radiation are subject to performance standards (21 CFR part 1020). You must follow FDA policies related to acquisition, use, and disposal of items identified by the FDA or other authority for which performance standards are established. See 21 CFR 1000.15 for examples of electronic items that are required to follow *radiation safety performance standards*. Several types of electronic radiation (and examples of items that may emit that type of radiation) include: ionizing electromagnetic radiation (television receivers); ultraviolet electromagnetic radiation (tanning and therapeutic lamps); infrared and microwave electromagnetic radiation (certain alarm systems); and, laser emissions (certain cauterizing, burning, and welding devices).

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.

Safety Data Sheet (SDS) 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 SDS information may be the manufacturer, distributor, or the procuring agency. Related documentation, such as a Material Safety Data Sheet (MSDS) may also provide information on hazards associated with assets handled under this part.

Universal Waste(s) mean(s) any of the following hazardous waste that is/are managed under the universal waste requirements of 40 CFR part 273:

(1) Batteries as described in 40 CFR 273.2;

(2) Pesticides as described in 40 CFR 273.3;

(3) Mercury-containing equipment (including thermostats) as described in 40 CFR 273.4 and as defined at 40 CFR 273.9; and

(4) Light bulbs containing mercury (such as fluorescent bulbs) as described in 40 CFR 273.5.

Subpart B—Responsibilities

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

Personal property requiring special handling includes property containing hazardous materials or property which exhibits dangerous characteristics such that improper use, storage, transportation or disposal may lead to potential safety, health, environmental, economic, or national security risks. In many situations, the use, storage, transportation or disposal of these items is governed by Federal, state, and local laws. Personal property requiring special handling may also include animals and plants which may perish if not handled appropriately, as well as perishable products that may lose their utility if not handled appropriately.

§ 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 safeguarding 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), EPA, 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 excess personal property with special handling requirements that you no longer need to GSA for Federal and donation screening (see § 102–36.215 of this subchapter for how to report excess personal property to GSA). The report to GSA must clearly identify property requiring special handling, and all related hazards, precautions, and handling requirements related to this property. You must 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. See § 102–40.125 for policy regarding disposal of property requiring special handling by abandonment or destruction. 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 are not required to report to GSA excess personal property with special handling requirements in any of the following 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.

However, if time and circumstances permit, this material may be reported to GSA to optimize use of this already-acquired material. When an item that is determined to be extremely hazardous property becomes excess, the holding agency should notify the appropriate GSA regional personal property office, which will determine if the property should be reported using Report of Excess Personal Property, Standard Form (SF) 120 or another method. At a minimum, you must identify the item, and describe the actual or potential hazard(s) associated with the handling, storage, or use of the item(s). This GSA regional office will determine the utilization, donation, sales or other disposal requirements, and provide appropriate guidance to the holding agency.

(b) *Hazardous wastes.* You must dispose of hazardous wastes 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.

(c) *Perishables.* You may dispose of perishables with no further utility by abandonment or destruction when it is not detrimental to public health or safety (see the abandonment/destruction provisions in § 102–40.125 and in part 102–36 of this subchapter). Although there is no requirement to report perishables to GSA if their spoilage is imminent (see § 102–36.220), perishables that have a longer time before spoilage and are clearly able to be used may be reported to GSA in accordance with part 102–36. When reporting perishables to GSA, you should annotate the Report for Excess Personal Property, SF 120 or electronic reporting form to show whether there is a specific expiration date for the perishable item and whether such date is an original or extended date.

(d) *EPA research and cleanup 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 clean-up a contaminated site.

§ 102–40.60 May we reassign hazardous materials?

Yes, when hazardous materials are reassigned within an executive agency, information on the actual or potential hazard must be included in the documentation effecting the reassignment, and the recipient organization must perpetuate in the inventory or control records visibility of

the nature of the actual or potential hazard.

102–40.65 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 receiving agency's consent.

§ 102–40.70 Who is responsible for the care and handling of hazardous materials and property requiring special handling?

(a) The holding agency is responsible for the care and handling of hazardous materials and property requiring special handling until the time the property has:

- (1) Completed the disposal process; and
- (2) 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. The costs associated with performing care and handling may be charged to the Federal agency or donation recipient in accordance with § 102–40.95.

(b) When transferring personal property to another federal agency, failure to disclose hazards or special handling requirements may result in the transferring agency being liable for additional costs incurred by the recipient agency, when authorized by applicable law and policy.

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

§ 102–40.75 What must we do when reporting excess personal property with special handling requirements?

You must include with your report of excess personal property a complete description of the characteristics of the property, use or disposal restrictions, and the actual or potential hazard(s) associated with the use, handling, or storage of the item. You should include a Safety Data Sheet (SDS), 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(s).

§ 102–40.80 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 parts 102–36 and 102–37 of this subchapter, respectively. Surplus personal property identified as hazardous material not required for transfer as excess personal property to Federal agencies should normally be made available for donation. However, state agencies should not acquire hazardous materials without first ensuring that there are known eligible donees for such property. Moreover, all transfer and donation documents must include a complete description of the actual or potential hazard(s) associated with the handling, storage, use, or disposal of the item. Also, any continuing restrictions or instructions must be clearly identified on these documents.

§ 102–40.85 Is donee certification required for the donation of personal property requiring special handling?

Yes, 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. GSA will not approve a donation to a State Agency for Surplus Property (SASP) unless an eligible donee has been identified. This subpart does not prohibit a SASP from bringing an item requiring special handling into its warehouse or other place of storage, provided that this storage is of a temporary nature, that the storage arrangement is agreeable to all parties involved in the donation, and that the storage location has the necessary facilities, gear, and trained personnel to handle, store, protect, and transport the property. 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 nature of the property hereby donated which requires special handling, 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 property. 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 property, its use, 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 property, its use, or final disposition.

Name and title of Donee (print or type)

Signature of Donee

§ 102–40.90 Must we establish 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. Also, it is the responsibility of the state agency and/or donee to comply with DOT regulations (49 CFR parts 171 through 177) when transporting hazardous material. Any costs incident to repacking or recontainment will be borne by the state agency and/or donee. Also, state agencies and/or donees will comply with EPA's Resource Conservation and Recovery Act (40 CFR parts 261 through 265) including its application to transporters, storers, users, and permitting of hazardous wastes.

§ 102–40.95 Who pays for the costs incident to the transfer of personal property with special handling requirements?

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

Subpart D—Sale of Personal Property With Special Handling Requirements

§ 102–40.100 May we sell personal property with special handling requirements?

Generally, yes, you may sell personal property with special handling requirements through an authorized Sales Center, provided that the property has been reported in accordance with subpart B and C of this part, when you:

(a) Comply with applicable Federal, state, and local laws and regulations, including part 102–38 of this subchapter; and

(b) Follow applicable precautions including but not limited to proper packaging of the property, labeling with appropriate warning signs, and allowing for inspection of the property with proper safeguards.

§ 102–40.105 May we use any sales method to sell personal property that requires special handling?

Yes, unless specifically restricted as to sales methods by provisions in subpart E of this part, you may use any of the sales methods provided in part 102–38 of this subchapter, but you must:

(a) Advertise and conduct 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 and/or regulations;

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

(d) Comply with the requirements of other Federal, state, and local laws and regulations; and

(e) Conduct the sale through an agency authorized to sell Federal property in accordance with part 102–38 of this subchapter.

§ 102–40.110 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, 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 requirements, restrictions, or limitations;

(b) An SDS, MSDS, or HMIS 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; and

(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

§ 102–40.115 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 (see certification at § 102–40.110), 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 CCLI, or mutilation requirements for flight safety critical aircraft parts. These additional requirements may be imposed by any law, regulation, or policy.

§ 102–40.120 What precautions must we take during the sales process for personal property requiring special handling?

(a) 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 special processing requirements, 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.

(b) Unless authorized by the appropriate GSA regional office, you must not sell extremely hazardous property unless the property is rendered innocuous or adequate safeguards are provided. Such property must be rendered innocuous in a manner so as to preserve the utility or commercial value of the property.

§ 102–40.125 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, 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. You should also preserve, as much as possible, any civilian utility or commercial value of the property (see § 102–40.50.) National security classified items must be declassified or destroyed in accordance with holding agency regulations.

Subpart E—Categories of Personal Property With Special Handling Requirements

§ 102–40.130 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 102–40.235 for special handling instructions for some categories of property for which Federal property managers are likely to have responsibility.

§ 102–40.135 How do we manage acid-contaminated and explosive-contaminated property?

(a) Acid-contaminated or explosive-contaminated property is considered extremely hazardous property and is not reported to GSA for subsequent transfer or donation. However, you should notify GSA of this property in accordance with § 102–40.55. If the property is not transferred or donated, you may dispose of such property by sale, in accordance with subpart D of this part and with the condition that the purchaser sufficiently decontaminates the property to the degree that it is no longer extremely hazardous. Also, such property must be properly labeled in accordance with § 102–40.45 and should not be abandoned. When destroyed, such destruction should be accomplished under § 102–40.125.

(b) 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

§ 102–40.140 How do we handle all-terrain vehicles (ATVs)?

(a) 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. Three-wheeled ATVs not exchanged must be mutilated in a manner to prevent operational use and may be sold only as salvage or scrap. Four-wheeled ATVs not exchanged may be offered for transfer and donation only when documented in accordance with §§ 102–40.75 and 102–40.80. In addition, any transfer or donation documentation for four-wheeled ATVs must require the recipient to acknowledge that the recipient will follow regulations and guidelines published by the Consumer Product Safety Commission related to these items, including age recommendations, restrictions on usage, and operator training. Four-wheeled ATVs not exchanged, transferred, or donated may be offered for sale as either salvage or scrap only after they have been mutilated in a manner to prevent operational use. Four-wheeled ATVs must not be released to the public after donee use, nor may they be released to the public after Federal use if the ATVs are not donated.

(b) A donation 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 nature of the property hereby donated which requires special handling, 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 property. 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 property, its use, 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 property, its use, or final disposition.

Name and title of Donee (print or type)

Signature of Donee

§ 102–40.145 How do we handle ammunition and ammunition components?

(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 to eligible donation recipients. You may sell non-expended ammunition and ammunition components (expended and non-expended) only to companies licensed to perform manufacturing/remanufacturing processes under the provisions of 18 U.S.C. 923 or other Federal law or regulation or to companies allowed to purchase ammunition components under local and state laws. If the ammunition is regulated pursuant to the National Firearms Act (NFA) or any other Federal regulation, then the ammunition can only be disposed of in accordance with applicable regulation. Ammunition greater than .50 caliber can, in some instances, be regulated under the NFA. You must follow any demilitarization requirements. When selling ammunition and 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 or 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 or ammunition components.

If the item being sold is scrap ammunition, the undersigned certifies that he/she is licensed to perform manufacturing/remanufacturing under the provisions of 18 U.S.C. 923 or other Federal law or regulation.

If the item being sold is a scrap ammunition component, the undersigned certifies that these scrap ammunition components will not be used for the original manufactured purpose.

License issuing authority and license number

Name of bidder (print or type)

Signature of bidder

(b) In addition to sales as described in paragraph (a) of this section, expended ammunition cartridge cases may also be transferred or donated when the recipient certifies that the spent brass will be reloaded and used only for law enforcement purposes. If there is no Federal or state donation interest in the cases, and a sale of the scrap is not feasible, cartridge cases may be disposed of using abandonment or destruction procedures under § 102–40.125. The recipient must certify that the expended cartridge cases will not be used for the original manufactured purpose.

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

§ 102–40.150 How do we handle animals and plants?

(a) Whenever possible, you should report live animals and plants to GSA for transfer, donation or sale. They are, however, considered perishables and may be disposed of by abandonment or destruction procedures in accordance with the authority contained in § 102–40.125. Abandonment or destruction procedures may be used for animals other than those specifically addressed below, where warranted for humane purposes.

(b) Unfit horses and mules may be humanely euthanized or put out to pasture in accordance with 40 U.S.C. 1308 and agency policies. Transfers of unfit horses or mules to Federal agencies must be conducted in accordance with part 102–36 of this subchapter. In the event that a transfer of these animals can be made to a humane organization, the transfer may be conducted under procedures contained in part 102–37 of this subchapter.

(c) Under 40 U.S.C. 555, you may transfer canines formerly used in the performance of law enforcement duties to an individual experienced in handling canines in the performance of those duties, in accordance with agency policy and procedures. For example, the “individual” may be the current handler of that canine or a previous handler.

§ 102–40.155 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. Further information on laws and regulations related to asbestos may be found at www.epa.gov/asbestos.

(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 parts 102–36 through 102–38 of this subchapter. 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 disposal documentation related to personal property containing nonfriable asbestos, such as exchange/sale, reporting, transfer, donation, 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 or requesting the exchange/sale, transfer, donation or sale of 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 § 102–40.125 and part 102–36 of this subchapter. 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.

(f) Friable asbestos materials that contain more than one percent asbestos by weight and can, by hand pressure, be crumbled, pulverized, or reduced to powder, thus allowing for potential release of asbestos fibers into the air. Property containing friable asbestos normally is not to be transferred, donated or sold. Notwithstanding these provisions, holding agencies, on a case-by-case basis, may request approval from GSA Central Office, with consultation from the EPA, to transfer,

donate or sell such property if in the judgment of the holding agency, special circumstances warrant such action.

(g) Excess personal property known to contain friable asbestos shall neither be reported to GSA nor transferred among Federal agencies excepted as noted in paragraph (f) of this section.

(h) Surplus property containing friable asbestos is to be neither donated nor sold. Such property is disposed of under paragraph (i) of this section.

(i) Excess and surplus property containing friable asbestos is to be disposed of by burial in a site that meets the EPA requirements of 40 CFR 61.156. Holding agencies should contact the nearest office of the EPA for assistance with regard to the disposal of materials containing asbestos, with the exception of DOD, who should contact the Defense Logistics Agency (DLA).

§ 102–40.160 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 part 1307). 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 the DEA. See the transfer procedures in FMR part 102–36 (41 CFR part 102–36).

(b) You must not donate controlled substances.

(c) In accordance with sales procedures specified in part 102–38 of this subchapter, and under the conditions specified in this paragraph, you may sell controlled substances by sealed bid only, to bidders who have registered with the DEA to manufacture, distribute, or dispense of 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 the DEA of the bidder's status as a registered manufacturer, distributor or dispenser of controlled substances.

(1) The invitation for bids for controlled substances must list only controlled substances and must only be distributed to bidders who are registered with the DEA, Department of Justice, to manufacture, distribute or dispense of the controlled substances being sold. In addition, 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 bids and contract 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: _____.

This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, United States Code, Crime and Criminal procedures.

Name of bidder (print or type)

Signature of bidder

Address of bidder (print or type)

City, State, Zip code

(d) As a condition precedent to making an award for the sale of surplus controlled substances, holding agencies should follow procedures provided by the DEA in 21 CFR part 1310.

(e) 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 part 1307, 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, unless DEA directs otherwise. 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 of destruction and on the date stated herein:
Certification of destruction of: _____

Manner in which destruction was performed

Date

Witness

Date

Witness

Date

§ 102–40.165 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 of this subchapter. For donation of drugs, biologicals, or reagents other than controlled substances, follow the procedures in part 102–37 of this subchapter, and paragraph (c) of this section.

(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 performed by an agency employee and witnessed and certified by two additional representatives of your agency. Similarly, destruction of this property held by a SASP or donee must be destroyed by a SASP employee and witnessed by two additional SASP employees. Destruction shall be 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 and retained by the Federal agency or SASP 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 of destruction and on the date stated herein:

Certification of destruction of: _____

Manner in which destruction was performed

Date

Witness

Date

Witness

Date

(c) When donating drugs, biologicals, or reagents other than controlled substances, the SASP shall obtain a

certification from the donee indicating that the items donated will be safeguarded, dispensed, and administered under competent supervision and in accordance with Federal, state, and local laws and regulations. Surplus drugs, biologicals, and reagents requested for donation by state agencies will not be transported by the state agency or stored in its warehouse prior to distribution to donees. Arrangements will be made by the state agency for the donee to make direct pickup at the holding agency after approval by GSA and after notification by the holding agency that the property is ready for pickup. Additionally, Transfer Order Surplus Personal Property, SF 123 from a state agency requesting surplus drugs, biologicals, and reagents for donation will not be processed or approved by GSA until it has been determined by the GSA donation representative that the specific donee is legally licensed to administer, dispense, store, or distribute such property. A copy of the donee's license, registration, or other legal authorization to administer, dispense, store, or distribute such property should be attached and made a part of the SF 123. The administration or use of drugs, biologicals, and reagents must be in compliance with the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301, *et seq.*).

(d) The sale of any unexpired drugs, biologicals, or reagents must be in accordance with rules published by the Food and Drug Administration (FDA). 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 DEA, 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. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, United States Code, Crime and Criminal procedures.

Name of bidder (print or type)

Signature of bidder

Address of bidder (print or type)

City, State, Zip code

§ 102–40.170 How do we handle electronic products?

(a) Additional guidance regarding the disposal and reporting of Federal electronic products is found under FMR part 102–36 (41 CFR part 102–36).

(b) Excess electronic products, certified and noncertified, meeting radiation safety performance standards or electronic products which are not required to meet such performance standards must be reported to GSA for transfer to Federal agencies in accordance with part 102–36 of this subchapter and may be donated or sold in accordance with parts 102–37 and 102–38 of this subchapter, respectively.

(c) Excess electronic products NOT meeting radiation safety performance standards must be reported to GSA for transfer to Federal agencies in accordance with FMR part 102–36 (41 CFR part 102–36) and may be donated or sold in accordance with parts 102–37 and 102–38 of this subchapter, respectively. The report to GSA, and any subsequent transfer, donation, or sales documents, must include a statement that the items are not in compliance with applicable radiation safety performance standards and specify the standard which is not being met. Additionally, the recipient must acknowledge that they are aware of the potential danger in handling or using such items.

(d) Donation documentation for items not meeting radiation safety performance standards must contain the following certification, or an equivalent certification, signed by the donee before release:

I (We), the undersigned, hereby certify that the donee has knowledge and understanding

of the potential danger in using the product without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standards prescribed for the item under 21 CFR parts 1010 through 1050, and agrees to accept the item from the holding agency for donation under those conditions. The undersigned further agrees that the Government 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 item, its use, or its final disposition. The undersigned also agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the item, its use, or its final disposition.

Name of Donee (print or type)

Signature of Donee

(e) Sales documents listing electronic products not meeting safety performance standards must also clearly warn purchasers that the items may not be in compliance with FDA radiation safety performance standards prescribed pursuant to 21 CFR parts 1010 through 1050 and that the purchaser assumes all risks associated with the use or resale of the items. The following type of warning will 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 pursuant to 21 CFR parts 1010 through 1050, and use may result in 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 the purchase, use 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 standards prescribed for the item under 21 CFR parts 1010 through 1050, unless authorized by 21 CFR 1002.4 to have the dealer or distributor hold and preserve.

(f) You must dispose of all electronic products in accordance with all Federal and state laws, including the Solid

Waste Disposal Act (42 U.S.C. 6901, *et seq.*) and Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management. You should also be aware of the prohibitions and liabilities contained in 42 U.S.C. 9607.

(g) When donating or selling electronic products, the sales terms and sales documentation, or donation document, must include the following certification, or an equivalent certification, which must be signed by the donee or successful bidder:

It is hereby certified that the undersigned purchaser or donee will comply with all the applicable Federal, state, and local laws, ordinances and regulations with respect to the care, handling, storage, disposal, and shipment, resale, export, or other use of the electronic products, hereby purchased or donated, and that he/she is a user of, or dealer in, said products. 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.

When recycling electronic products, purchaser or donee should use any national standards, best management practices, or existing certification programs for recyclers in addition to Federal, state, and local laws, ordinances and regulations. In the absence of national standards, best management practices, or a national certification program for recyclers, the purchaser/donee should use "EPA's Guidelines for Materials Management" found at <http://www.epa.gov/epawaste/index.htm>

Name of purchaser or donee (print or type)

Signature of purchaser or donee

(h) Additionally, noncertified and certified electronic products must be abandoned under the provisions of § 102–40.125.

§ 102–40.175 How do we handle firearms?

(a) You must submit reports and transfer documents on excess firearms to GSA (8QSC), 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). 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)(1) For purposes of donation under paragraph (b) of this section, each Transfer Order Surplus Personal Property SF 123 must be accompanied by a conditional transfer document, signed by both the intended donee agency and the SASP, which includes the special terms, conditions, restrictions, and other forms or information required for the transfer of the donated firearms. Restrictions on donated firearms are perpetual and may not be amended by the SASP without prior written approval from GSA. Donated firearms must be released or shipped directly from the Federal donor agency to the designated donee.

(2) If the firearms to be donated are subject to the National Firearms Act, 26 U.S.C. Chapter 53, (e.g., machineguns, silencers, short-barrel rifles, short-barrel shotguns, firearms over .50 caliber or with a bore diameter of more than 1/2 inch, and destructive devices) the SF 123 must be accompanied by an ATF Form 10, Application for Registration of Firearms Acquired by Certain Governmental Entities, completed by the donee agency as specified in 27 CFR 479.104. Upon approval of the donation by the SASP, the Form 10 shall be forwarded in accordance with the form's instructions. The Chief, National Firearms Act Branch, shall notify the donee agency of ATF registration of the donated firearms by returning the approved Form 10 to the donee agency. The donee agency shall provide a copy of the approved Form 10 to the SASP who shall retain a copy of the approved Form 10 and attach it to the SF 123. Firearms shall not be released for shipment until the ATF Form 10 has been approved by the ATF and a copy provided to the SASP. The registration of any firearms on ATF Form 10 is for official use only and subsequent transfers will be approved only to other Governmental entities for official use and in accordance with paragraph (e)(2) of this section. If you have questions concerning whether particular firearms are subject to the National Firearms Act, contact the Firearms Technology Industry Services Branch, ATF, at (304) 616-4300 or FIRE_TECH@atf.gov.

(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 entity 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)(1) When the approved donee agency no longer needs the donated firearms, the donee agency must notify the SASP. The SASP may, with GSA approval and in accordance with paragraph (e)(2) of this section, reassign firearms to another donee agency within the state or to a donee agency in another state through the appropriate SASP. In such a case, transfer of the firearms must be between eligible donee agencies only. No SASP is eligible to take custody of the firearms. If the firearms are not sought for reassignment, the donee agency 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. If firearms subject to the National Firearms Act are destroyed, the SASP shall notify the Chief, National Firearms Act Branch, ATF, so the destruction can be noted in the National Firearms Registration and Transfer Record.

(2) If the firearms sought for reassignment are subject to the National Firearms Act, the firearms must be transferred in accordance with 27 CFR 479.90. This regulation requires that the donor agency submit an ATF Form 5, Application for Tax Exempt Transfer and Registration of Firearm, which must be approved prior to transfer of the firearms. Donor agencies wishing to reassign firearms subject to the National Firearms Act shall submit a completed ATF Form 5 to the SASP along with the request to reassign the firearms to another donee agency. The SASP shall forward the ATF Form 5 to the Chief, National Firearms Act Branch. If transfer is approved by the ATF, the donor agency will receive a copy of the Form 5, with approval noted thereon, from the Chief, National Firearms Act Branch, ATF. The donor agency shall provide a copy of the approved Form 5 to the SASP at which time the reassignment shall be approved.

(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 and incapable of being made operable for any purpose except the recovery of basic material content. Destruction of firearms must be performed as stated in paragraphs (d) and (e) of this section.

(g) You must not dispose of functional or repairable firearms under an exchange/sale transaction or by sale. Surplus firearms may be sold only for scrap after total destruction as described

in paragraph (f) of this section 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.

(h)(1) Except as provided in paragraph (h)(2) of this section, 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. If sold to the gift recipient, a certification signed by the gift recipient certifying compliance with all Federal, state, and local laws regarding purchase and possession of firearms must be received by the gift recipient's agency and the agency conducting the sale prior to the sale and release of such firearm to the gift recipient.

(2) Firearms subject to the National Firearms Act, 26 U.S.C. Chapter 53 that are received as foreign gifts cannot be lawfully transferred to an individual gift recipient. These firearms must remain the property of the United States or may be transferred to a donee agency in accordance with paragraphs (b) and (c) of this section. In addition, all firearms must also be transferred, shipped, received, and possessed in accordance with the Gun Control Act of 1968. Persons having questions concerning compliance with the Gun Control Act should contact the nearest ATF field office.

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

§ 102-40.180 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 SDSs or similar documentation to identify potential hazards. SDSs are also prescribed by OSHA under 29 CFR part 1910.

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

(3) A collection of hazard-related information in DOD's HMIS provides transportation and disposal information.

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

(5) When information is not available under paragraphs (a)(1), (2), (3), or (4) of this section, contact the manufacturer, the procuring agency, or your technical staff for assistance in obtaining the SDS, MSDS, or HMIS 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. If the item has been determined hazardous, the owning Federal agency must document the accountable inventory record accordingly. If the item has not been appropriately labeled by the manufacturer or distributor, the owning agency must appropriately label, mark, or tag the item in accordance with OSHA requirements (29 CFR 1919.1200) regarding the actual potential hazard associated with the handling, storage, or use of the item.

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

(d) For disposal of hazardous materials, see §§ 102–40.35 through 102–40.125.

(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.

§ 102–40.185 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 restrictions and requirements found in the Consumer Product Safety Commission regulations set forth in 16 CFR part 1303. The transfer, donation or sales documents must clearly describe these leaded items and why they require special handling, and identify the danger inherent in the use or disposal of such paint and items bearing lead-containing paint. You must not abandon such items or their containers. You must destroy them in a way that will prohibit future acquisition and use, and in a manner authorized by law and regulation. 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) of this section 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 SF 123) must contain the following certification, or an equivalent certification:

The property requested herein shall be used only as specified in 16 CFR part 1303 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

§ 102–40.190 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, *et seq.* FDA regulations covering medical devices are found in 21 CFR chapter I, subpart H. The Act prohibits the movement in interstate commerce of medical devices that are adulterated or misbranded (21 U.S.C. 331). The Act authorizes FDA to initiate civil proceedings to seize or enjoin the distribution of such items (21 U.S.C. 334), and to report any violations to a U.S. Attorney for prosecution, after such individual is given notice and a hearing (21 U.S.C. 335).

(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.

§ 102–40.195 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 supply system of the Department of Defense (DOD) or a civilian agency. Refer to DOD 4160.21–M–1 (Change No. 1) for a complete description of the DOD program and the requirements to be followed for property owned, procured by or under the control of DOD. The DOD manual is available from the Defense Logistics Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060. If your agency uses another system of identifying items requiring

demilitarization, you must provide a detailed description of that system to the General Services Administration, Mail Code MA, 1800 F Street NW., Washington, DC 20405, Attn: Director, Personal Property Policy.

(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), or other agency policy manual if the MLIs are not governed by the DOD demilitarization manual.

(c) Disposal of MLIs will follow the provisions of parts 102–36, 102–37, and 102–38 of this subchapter unless different disposal procedures are required by law or your agency regulation issued in support of 22 U.S.C. 2778.

§ 102–40.200 How do we handle Commerce Control List Items (CCLIs)?

(a) 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. 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 informed that this notification must pass to all subsequent recipients of the item.

(2) When being sold, completed end-use certificates are required of all 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, chapter VII, subchapter C.

§ 102–40.205 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 App. U.S.C. 2093), are not

covered by the Federal Management Regulation. The disposal of these assets is governed by 50 U.S.C. 98d, 98e, and 98f.

§ 102–40.210 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. Direct all inquiries to the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

§ 102–40.215 How do we handle ozone depleting substances (ODSs)?

Handle ODSs in accordance with Federal and state laws and regulations. Prior to disposal of ODSs removed or reclaimed from facilities or equipment, including disposal as part of a contract, trade or donation, coordinate with the Defense Ozone Depleting Substances Reserve Program Office to determine if the recovered ODS is a critical requirement for DOD missions. Direct inquiries to the Defense Ozone Depleting Substances Reserve Program Office, Defense Supply Center, Richmond, Virginia; email: DSCR.ODSReserve@dla.mil; phone: (804) 279–3064. Additional guidance is available from EPA at: <http://www.epa.gov/ozone/title6/608/608fact.html#overview>.

§ 102–40.220 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. 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 Web site at: <http://www.epa.gov/waste/hazard/tsd/pcbs/index.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), 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) All transfers orders or transfer documents must cite the specific provision in 40 CFR part 761 that permits continued use of the item, and contains a certification that the property has been inspected by the transferee and complies with all the use, inspection, labeling, and other provisions of 40 CFR part 761.

(iii) The recipient must annotate its property accountability records to reflect the nature and extent of the PCB content and must provide the specific authorization covering the use of this item from 40 CFR part 761. If tests are conducted to ascertain the nature and extent of PCB contamination, the recipient must furnish the GSA regional office with a copy of the test results. This information will be perpetuated on any notification or release document when the agency disposes of the property.

(iv) If PCBs or PCB items are donated to service educational activities or to public airports, the Department of Defense and the Federal Aviation Administration, respectively, must obtain the warning and certification as described in paragraph (e) of this section.

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

(2) PCB and PCB items not transferred or donated must be destroyed or otherwise disposed of under EPA regulations and applicable state laws. 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 regulations (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 SASP 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. 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 and title of donee (print or type)

Signature of donee

§ 102–40.225 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. Federal civil agencies may participate in the DOD Precious Metal Recovery Program (PMRP) in accordance with this subpart, and have an Inter-Agency Service Agreement (ISA) in effect between the Defense Logistics Agency (DLA) and individual Federal civil agencies. You may acquire recovered fine precious metals as

Government Furnished Material or for other authorized uses by submitting a request to the Commander, Defense Supply Center, Philadelphia (DSCP), 700 Robbins Avenue, Philadelphia, Pennsylvania 19111–5096.

(b) Precious metals will be sold in accordance with this subpart and part 102–38 of this subchapter.

(c) Sales of precious metals will be processed as follows:

- (1) Require a bid deposit appropriate to the circumstances of the sale;
- (2) Certify all forms of bid deposit and payments; and
- (3) Include in the invitation for bids only precious and semiprecious materials as may be available for sale at that time.

(d) Each agency generating scrap precious metals and also having a continuing need for fine precious metals may arrange for the acceptance of scrap precious metals for fine precious metals with a private contractor or the DLA.

§ 102–40.230 How do we handle universal waste(s) (UWs)?

When disposing of universal waste, follow the instructions on the Web sites below, which contain descriptions of the commodities addressed, as well as the handling and disposal requirements from the relevant sections of 40 CFR part 273:

(a) *Batteries.* <http://www.epa.gov/osw/hazard/wastetypes/universal/batteries.htm>;

(b) *Pesticides.* <http://www.epa.gov/epawaste/hazard/wastetypes/universal/pesticides.htm>;

(c) *Mercury-containing equipment.* <http://www.epa.gov/epawaste/hazard/wastetypes/universal/mce.htm>; and

(d) *Mercury-containing light bulbs (such as fluorescent bulbs).* <http://www.epa.gov/osw/hazard/wastetypes/universal/lamps/index.htm>.

§ 102–40.235 How do we handle motor vehicles not suitable for highway use?

Refer to subpart H of part 102–34 of this subchapter for the general policies regarding disposal of motor vehicles. Some Government-owned motor vehicles might receive such extensive damage as a result of an accident, event or other activity, that they are no longer suitable for utilization, donation, or sale for highway use. Such vehicles may only be donated or sold for salvage or scrap. Prior to disposal of damaged motor 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. See § 102–34.305 of this subchapter (note to § 102–34.305(a)(2)) if the vehicle is not designed or not legal for operation on highways.

Appendix A to Part 102–40—Federal Supply Classes (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 base.
9135	Liquid propellant fuels & oxidizers, chemical base.
9140	Fuel oils.
9150	Oils & greases: cutting, lubricating, & hydraulic.
9160	Misc. waxes, oils, & fats.

Appendix B to Part 102–40—Federal Supply Classes and Groups Which Contain a Significant Number of Hazardous Items

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.

Note: If an item is determined to be hazardous material as defined in § 102–40.30,

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.
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, 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).
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 that 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.

Federal supply class/ group	Title	Examples of hazardous materials requiring identification
6685	Pressure, temperature, and humidity 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 gases 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.

[FR Doc. 2015-02538 Filed 2-9-15; 8:45 am]

BILLING CODE 6820-14-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1305

RIN 0970-AC46

Head Start Program

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This rule will ensure the neediest children and families in our country benefit from Head Start services first.

DATES: This final rule becomes effective March 12, 2015.

FOR FURTHER INFORMATION CONTACT: Colleen Rathgeb, Office of Head Start, 202-205-7378 (not a toll-free call). Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

The national Head Start program funds local organizations to provide comprehensive school readiness

services to preschool-age children from low-income families. These services enhance children's social and cognitive development, through health, educational, nutritional and other social services. These services also are designed to respond to children's ethnic, cultural, and linguistic heritages. Many Head Start programs also provide Early Head Start, which serves infants, toddlers, and pregnant women whose families have incomes below the Federal poverty level.

II. Background

We published a Notice of Proposed Rulemaking (NPRM) on March 18, 2011 to propose provisions that ensure only the neediest families receive Head Start services first.¹ We received great feedback during the 30-day comment period and, in response, made changes, where appropriate. These changes clarify Head Start's eligibility procedures and enrollment requirements, and reinforce Head Start's overall mission to support low-income families and early learning. We believe this final rule, which is published under the authority granted to the Secretary of Health and Human Services under the Head Start Act (Act)² at sections 644(c), 645(a)(1)(A), and 645A(c), provides a

¹ See a copy of the NPRM at <https://www.federalregister.gov/articles/2011/03/18/2011-6326/head-start-program>.

² See The Improving Head Start for School Readiness Act of 2007, Public Law 110-134, December 12, 2007 at <http://www.govtrack.us/congress/bills/110/hr1429/text>.

balanced approach to program administration, improves overall program effectiveness, and better aligns us with current practices in the field.

III. General Comments and the Final Rule

We received comments in general about this rule. Below, we summarized the comments and responded to them accordingly.

Comment: Many commenters supported the notice of proposed rulemaking. They believe the rule strengthens Head Start programs and program accountability. Some programs currently verify eligibility in a similar manner to what we proposed. In addition, a national organization asked us to consider five guiding principles—accountability, efficiency, clarity, do no harm, and flexibility.

Response: We appreciate the positive comments, and we believe we have met the five guiding principles. In this final rule, we include provisions that improve Federal oversight and ensure accountability for purposes consistent with the Act. We make the process programs must use to determine eligibility more efficient and clear so there is less room for programs to err. The “do no harm” principle derives from medical ethics. It reminds health care providers to consider the possible harm that any intervention might do. We carefully considered any possible harm that this regulation might do. Finally, we are less prescriptive so as to