

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

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

List of Subjects in 40 CFR Part 52

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

Dated: September 28, 2011.

Keith Takata,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

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

§ 52.220 Identification of plan.

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

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

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

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

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

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[FR Doc. 2011-28251 Filed 10-31-11; 8:45 am]
BILLING CODE 6560-50-P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

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

RIN 3090-AJ19

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

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

ACTION: Final rule.

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

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

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

SUPPLEMENTARY INFORMATION:

A. Background

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

B. Executive Orders 12866 and 13563

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

C. Regulatory Flexibility Act

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

D. Paperwork Reduction Act

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

E. Small Business Regulatory Enforcement Fairness Act

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

List of Subjects in 41 CFR Part 101-26

Procurement sources and programs.

Dated: August 4, 2011.

Martha Johnson,

Administrator of General Services.

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

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

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

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

§ 101–26.107 [Removed]

■ 2. Remove § 101–26.107.

[FR Doc. 2011–27754 Filed 10–31–11; 8:45 am]

BILLING CODE 6820–14–P

**GENERAL SERVICES
ADMINISTRATION**

41 CFR Part 102–39

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

RIN 3090–AJ20

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

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

ACTION: Final rule.

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

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

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

SUPPLEMENTARY INFORMATION:

A. Background

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

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

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

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

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

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

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

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

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

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

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

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

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

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