

international agency, or other organization; or

(3) Use of a foreign air carrier is determined to be a matter of necessity by your agency, on a case-by-case basis, when:

(i) No U.S. flag air carrier can provide the specific air transportation needed;

(ii) No U.S. flag air carrier can meet the time requirements in cases of emergency;

(iii) There is a lack of or inadequate U.S. flag air carrier aircraft;

(iv) There is an unreasonable risk to safety when using a U.S. flag carrier aircraft (e.g., terrorist threats). Written approval of the use of foreign air carrier service based on an unreasonable risk to safety must be approved by your agency on a case-by-case basis and must be supported by a travel advisory notice issued by the Federal Aviation Administration, Department of State, or the Transportation Security Administration; or

(v) No U.S. flag air carrier can accomplish the agency's mission.

(b) *Ocean cargo*: International movement of property by water is subject to the Cargo Preference Act of 1954, as amended, 46 U.S.C. 55305, and the implementing regulations found at 46 CFR Part 381, which require the use of a U.S. flag carrier for 50% of the tonnage shipped by each Department or Agency when service is available. The Maritime Administration (MARAD) monitors agency compliance with these laws. All Departments or Agencies shipping Government-impelled cargo must comply with the provisions of 46 CFR 381.3. For further information contact MARAD, Tel: 1-800-996-2723, Email: cargo.marad.dot.gov. For further information on international ocean shipping, go to: <http://www.marad.dot.gov/cargopreference>.

[FR Doc. 2014-13652 Filed 6-10-14; 8:45 am]

BILLING CODE 6820-14-P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102-192

[Change 2014-02; FMR Case 2008-102-4;
Docket 2008-0001; Sequence 7]

RIN 3090-A179

Federal Management Regulation (FMR); Mail Management; Requirements for Agencies

AGENCY: Office of Asset and Transportation Management (MA), Office of Government-wide Policy (OGP), GSA.

ACTION: Final rule.

SUMMARY: The U.S. General Services Administration (GSA) is amending the Federal Management Regulation (FMR) by revising its mail management policy. This amendment revises the term “commercial payment process” and removes the requirement that agencies pay the United States Postal Service (USPS) using only commercial payment processes. This final rule changes the date of the annual mail management report, removes the description of facility and program mail manager responsibilities, and requires all agencies to expand existing mail security policy to include guidance for employees receiving incoming and sending outgoing official mail at alternative worksites. Finally, this final rule encourages agencies to implement the process of mail consolidation, increase sustainable activities in their mail programs, and makes editorial and technical corrections. This case is included in GSA's retrospective review of existing regulations under Executive Order 13563.

DATES: *Effective:* August 11, 2014.

ADDRESSES: Additional information is available at www.gsa.gov/improvingregulations.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Linda Willoughby, Office of Government-wide Policy, Mail Management Policy, at 202-219-1083, or by email at linda.willoughby@gsa.gov. Please cite FMR case 2008-102-4. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405, 202-501-4755.

SUPPLEMENTARY INFORMATION:

A. Background

GSA is amending this regulation to reverse an interim rule first issued on June 6, 2002, in the **Federal Register** (67 FR 38896) that required all payments to the United States Postal Service (USPS) to be made using commercial payment processes, not the Official Mail Accounting System (OMAS). As a result of agency comments and waiver requests received, it became clear that many agencies were unable to move to commercial payment. Additionally, enhancements in OMAS allowed for accountability to agencies at the program level, which is important for cost containment. This rule allows agencies to pay the USPS using commercial payment processes, their existing OMAS account, or a combination of the two. This approach is consistent with comments received on the proposed rule published in the **Federal Register** on January 9, 2009 (74

FR 870). In addition, this rule incorporates several changes that GSA drafted in conjunction with the Federal Mail Executive Council.

A proposed rule was published in the **Federal Register** on May 13, 2013 (FMR Case 2008-102-4 at 78 FR 27908), that received 11 comments. Of these, 9 comments recommended keeping the annual reporting threshold for agencies with mail expenditures of \$1 million or more (“large agencies”). GSA concurs with these comments and kept the reporting requirement for large agencies for two reasons. First, the current reporting from large agencies is thought to represent over 95 percent of mail expenditures. This is sufficient for the development of data-driven policy. Second, the reporting requirement would be too burdensome for small agencies and would be costly. Members of the Small Agency Council (SAC) submitted 7 of 9 comments requesting to retain the large agency reporting requirement. SAC members have 6,000 or fewer employees. According to SAC, about 33 percent of the 90 agencies are micro-agencies with less than 100 employees and have mail expenditures under \$20,000. Thus, GSA agrees that the proposed, expanded reporting requirement would be too burdensome on small agencies with low mail expenditures.

Three comments were received on commercial payment. As the proposed change was to allow payment to the USPS from either commercial or through OMAS, the request for GSA to continue accepting deviation requests for OMAS is unnecessary. The definition of payment to non-USPS service providers was expanded in response to one comment received that the current definition was too limited.

One commenter requested that GSA retain roles and responsibilities of the mail program and center managers in the regulation. GSA does not adopt this request as the information was duplicative and best used as a guide, as the requestor indicated. Lastly, GSA adopted some editorial comments and has addressed these comments below in the “Changes to the Current FMR” section.

Two comments received were in support of keeping the consolidation of internal and external mail operations, as well as, supporting the sustainability activities in the mail program by incorporating strategies in accordance with Executive Order 13514. GSA appreciates these comments.

B. Changes to the Current FMR

This final rule:

1. Removes the agency requirement to pay the USPS using only commercial payment processes and redefines the term “commercial payment process.”

2. Beginning in fiscal year (FY) 2014, revises the annual mail management reporting date from January 15 to October 31.

3. Requires large agencies with expenditures of \$1 million or greater to submit an annual mail management report to GSA’s Office of Government-wide Policy, Mail Management Policy, through the Simplified Mail Accountability Reporting Tool (SMART).

4. Refers to an FMR bulletin that details the reporting requirements at www.gsa.gov/fmrbulletin.

5. Removes the description of facility and program mail manager responsibilities.

6. Recommends all agencies implement the process of consolidation for internal and external mail.

7. Requires all agencies to expand existing mail security policy to include guidance for employees receiving incoming and sending outgoing official mail at an alternative worksite.

8. Encourages agencies to increase sustainable activities in their mail programs.

9. Makes editorial and technical corrections.

C. 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 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.

D. 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 rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2) because it applies to agency management or personnel.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the Federal Management Regulation do 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.*

F. 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 or personnel.

List of Subjects in 41 CFR Part 102–192

Government contracts, Mail, Performance measurement, Records management, Reporting recordkeeping requirements, and Security.

Dated: April 3, 2014.

Dan Tangherlini,

Administrator of General Services.

For the reasons set forth in the preamble, GSA revises 41 CFR part 102–192 to read as follows:

PART 102–192—MAIL MANAGEMENT

Subpart A—Introduction to This Part

Sec.

102–192.5 What does this part cover?

102–192.10 What authority governs this part?

102–192.15 How are “I,” “you,” “me,” “we,” and “us” used in this part?

102–192.20 How are “must” and “should” used in this part?

102–192.25 Does this part apply to me?

102–192.30 To what types of mail and materials does this part apply?

102–192.35 What definitions apply to this part?

102–192.40 Where can we obtain more information about the classes of mail?

102–192.45 How can we request a deviation from these requirements, and who can approve it?

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102–192.55 Why must we use these payment processes?

102–192.60 How do we implement these payment processes?

102–192.65 What features must our finance systems have to keep track of mail expenditures?

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102–192.80 How do we develop written security policies and plans?

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102–192.110 At what levels in our agency must we have performance measures?

102–192.115 Why must we use performance measures?

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102–192.120 Must we have an agency mail manager?

102–192.125 What is the appropriate managerial level for an agency mail manager?

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Subpart C—GSA’s Responsibilities and Services

102–192.135 What are GSA’s

responsibilities in mail management?

102–192.140 What types of support does GSA offer to Federal agency mail management programs?

Authority: 44 U.S.C. 2901–2904.

Subpart A—Introduction to this Part

§ 102–192.5 What does this part cover?

This part prescribes policy and requirements for the effective, economical, and secure management of incoming, internal, and outgoing mail and materials in Federal agencies.

§ 102–192.10 What authority governs this part?

This part is governed by section 2 of Public Law 94–575, the Federal Records Management Amendments of 1976 (44 U.S.C. 2901–2904, as amended), that requires the Administrator of General Services to provide guidance and assistance to Federal agencies to ensure economical and effective records management and defines the processing of mail by Federal agencies as a records management activity.

§ 102–192.15 How are “I,” “you,” “me,” “we,” and “us” used in this part?

In this part, “I,” “me,” and “you” refer to the agency mail manager, a person working in a Federal mail operation, or the agency itself. Where the context does not make it entirely clear which is meant, the meaning is spelled out the first time a pronoun is used in the section. “We,” “us,” and “you” in the plural refer to your Federal agency.

§ 102–192.20 How are “must” and “should” used in this part?

In this part—

(a) “Must” identifies steps that Federal agencies are required to take; and

(b) “Should” identifies steps that the GSA recommends. In their internal policy statements, agencies may require steps that GSA recommends.

§ 102–192.25 Does this part apply to me?

Yes, this part applies to you if you work in mail management in a Federal agency, as defined in § 102–192.35.

§ 102–192.30 To what types of mail and materials does this part apply?

(a) This part applies to all materials that pass through a Federal mail center, including all incoming and outgoing materials. This includes:

- (1) First Class Mail;
- (2) Standard Mail;
- (3) Periodicals;
- (4) Package Services; and
- (5) Express Mail.

(b) This part does not apply to shipments of parts or supplies from a material distribution center. A material distribution center is a warehouse that maintains and distributes an inventory of parts and supplies.

§ 102–192.35 What definitions apply to this part?

The following definitions apply to this part:

Accountable mail means any piece of mail for which a service provider and the mail center must maintain a record that shows where the mail piece is at any given time, and when and where it was delivered. Examples of *accountable mail* include United States Postal Service (USPS) registered mail and all expedited mail.

Agency mail manager means the person who manages the overall mail management program of a Federal agency.

Class of mail means one of the five categories of domestic mail as defined by the Mailing Standards of the USPS in the Domestic Mail Manual (DMM) located at <http://pe.usps.gov/>. These include:

- (1) Express mail;
- (2) First class (includes priority mail);
- (3) Periodicals;
- (4) Standard mail, bulk business mail; and
- (5) Package services.

Commercial payment process means paying for postage using the United States Postal Service’s Centralized Account Processing System or another payment approach used by the private sector.

Commingling means combining outgoing mail from one facility or agency with outgoing mail from at least one other source.

Consolidation means the process of combining into a container two or more pieces of mail directed to the same addressee or installation on the same day.

Consolidation of facilities means the process of combining more than one mail center into a central location. The decision to consolidate should be based on a cost analysis comparing the projected cost savings to the cost of implementation.

Expedited mail means mail designated for overnight and 2- or 3-day delivery by service providers. Examples of *expedited mail* include Dalsey, Hillblom, Lynn (DHL); Federal Express (FedEx); United Parcel Service (UPS); and United States Postal Service (USPS) express mail.

Federal agency or agency as defined in 44 U.S.C. 2901(14) means—

- (1) An executive agency, which includes:
 - (i) Any executive department as defined in 5 U.S.C. 101;
 - (ii) Any wholly owned Government corporation as defined in 31 U.S.C. 9101;
 - (iii) Any independent establishment in the executive branch as defined in 5 U.S.C. 104; and
 - (2) Any establishment in the legislative or judicial branch of the Government, except the Supreme Court, the Senate, the U.S. House of Representatives, the Architect of the Capitol, and any activities under the direction of the Architect of the Capitol.
- Federal facility or facility* means any office building, installation, base, etc., where Federal agency employees work. This includes any facility where the Federal Government pays postage expenses even though few or no Federal employees are involved in processing the mail.

Incoming mail means any mail that comes into a facility delivered by any service provider, such as DHL, FedEx, UPS, and USPS.

Internal mail means mail generated within a Federal facility that is delivered within that facility or to a nearby facility of the same agency, so long as it is delivered by agency personnel.

Large agency means a Federal agency whose collective total payments to all mail service providers equals or exceeds \$1 million per fiscal year.

Mail means that as described in § 102–192.30.

Mail center means an organization and/or place, within or associated with

a Federal facility, where incoming and/or outgoing Federal mail and materials are processed.

Mail expenditures means direct expenses for postage, fees and services, and all other mail costs, meter fees, permit fees, etc. (e.g., payments to service providers, mail center personnel costs, mail center overhead).

Mail piece design means creating and printing items to be mailed so that they can be processed efficiently and effectively by USPS automated mail processing equipment.

Official Mail means incoming or outgoing mail that is related to official business of the Federal Government.

Official Mail Accounting System (OMAS) means the USPS Government-specific system used to track postage.

Outgoing mail means mail generated within a Federal facility that is going outside that facility.

Personal mail means incoming or outgoing mail that is not related to official business of the Federal Government.

Postage means payment for delivery service that is affixed or imprinted to a mail piece usually in the form of a postage stamp, permit, imprint, or meter impression.

Presort means a mail preparation process used to receive a discounted mail rate by sorting mail according to USPS standards.

Program level means a component, bureau, regional office, and/or a facility that generates outgoing mail.

Service provider means any agency or company that delivers materials and mail. Some examples of service providers are DHL, FedEx, UPS, USPS, courier services, the U.S. Department of Defense, the U.S. Department of State’s Diplomatic Pouch and Mail Division, and other Federal agencies providing mail services.

Sustainability/Sustainable means to create and maintain conditions under which humans and nature can exist in productive harmony. *Sustainability* efforts seek to fulfill the social, economic, and environmental needs of present and future generations.

Telework means a flexible work arrangement under which an employee performs assigned duties and responsibilities, and other authorized activities, from an approved alternate location.

Unauthorized use of agency postage means the use of penalty or commercial mail stamps, meter impressions, or other postage indicia for personal or unofficial use.

Worksharing is one way of processing outgoing mail so that the mail qualifies for reduced postage rates (e.g.,

presorting, bar coding, consolidating, commingling).

§ 102–192.40 Where can we obtain more information about the classes of mail?

You can learn more about mail classes in the Domestic Mail Manual (DMM). The DMM is available online at <http://pe.usps.gov>, or you can order a copy from: Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197–9000.

§ 102–192.45 How can 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. The Administrator of General Services and those to whom the Administrator has delegated such authority have the power to approve or deny a deviation.

Subpart B—Agency Requirements

Financial Requirements for All Agencies

§ 102–192.50 What payment processes are we required to use?

(a) You must pay the USPS using one or more of the following:

- (1) The U.S. Treasury Intergovernmental Payment and Collection Payment (IPAC) process associated with the Official Mail Accounting System (OMAS);
- (2) The USPS Centralized Account Processing System (CAPS) associated with commercial payments; or
- (3) Another Treasury approved means of paying the USPS.

(b) Payments made to service providers other than USPS must be made by U.S. Treasury payment methods such as automated clearing house-electronic funds transfer, or another Treasury approved means of paying the vendor.

§ 102–192.55 Why must we use these payment processes?

In accordance with 44 U.S.C. 2904, GSA is required to standardize and improve accountability with respect to records management, including Federal mail management.

§ 102–192.60 How do we implement these payment processes?

Guidance on implementing the Intra-governmental Payment and Collection System can be found at: <http://www.fms.treas.gov/ipac/index.html>.

§ 102–192.65 What features must our finance systems have to keep track of mail expenditures?

All agencies must have an accountable system for making postage

payments; that is, a system that allocates postage expenses at the program level within the agency and makes program level managers accountable for obligating and tracking those expenses. The agency will have to determine the appropriate program level for this requirement because the level at which it is cost beneficial differs widely. The agency's finance systems should track all mail expenditures separately to the program level or below, and should—

- (a) Show expenses for postage and all other mail expenditures, payments to service providers, etc., separate from all other administrative expenses;
- (b) Allow mail centers to establish systems to charge their customers for mail expenditures; and
- (c) Identify and charge the mail expenditures that are part of printing contracts down to the program level.

Security Requirements for All Agencies

§ 102–192.70 What security policies and plans must we have?

(a) Agencies must have a written mail security policy that applies throughout your agency.

(b) Agencies must have a written mail security plan for each facility that processes mail, regardless of the facility's mail volume.

(c) Agencies must have a security policy for employees receiving incoming and sending outgoing mail at an alternative worksite, such as a telework center.

(d) The scope and level of detail of each facility mail security plan should be commensurate with the size and responsibilities of each facility. For small facilities, agencies may use a general plan for similar locations. For larger locations, agencies must develop a plan that is specifically tailored to the threats and risks at your location. Agencies should determine which facilities they consider small and large for the purposes of this section, so long as the basic requirements for a security plan are met at every facility.

(e) All mail managers are required to annually report the status of their mail security plans to agency headquarters. At a minimum, these reports should assure that all mail security plans comply with the requirements of this part, including annual review by a subject matter expert and regular rehearsal of responses to various emergency situations by facility personnel.

(f) A security professional who has expertise in mail center security should review the agency's mail security plan and policies annually to include identification of any deficiencies.

Review of facility mail security plans can be accomplished by subject matter experts such as agency security personnel. If these experts are not available within your agency, seek assistance from the U.S. Postal Inspection Service (<https://postalinspectors.uspis.gov/>) or the Federal Protective Service (FPS) (<http://www.dhs.gov/federal-protective-service>).

§ 102–192.75 Why must we have written security policies and plans?

All Federal mail programs must identify, prioritize, and coordinate the protection of all mail processing facilities in order to prevent, deter, and mitigate the effects of deliberate efforts to destroy, incapacitate, or exploit the mail center or the national mail infrastructure. Homeland Security Presidential Directive (HSPD 7) at <http://www.fas.org/irp/offdocs/nspd/hspd-7.html> requires all agencies to protect key resources from terrorist attacks. All Federal mail centers are identified as key resources under the Postal and Shipping Sector Plan. Further details on the plan can be found at the Department of Homeland Security's (DHS) Web site at <http://www.dhs.gov/>.

§ 102–192.80 How do we develop written security policies and plans?

Agency mail managers must coordinate with their agency security service and/or the FPS or the U.S. Postal Inspection Service to develop agency mail security policies and plans. The FPS has developed standards for building construction and management, including standards for mail centers. At a minimum, the agency mail security plan must address the following topics:

- (a) Risk assessment;
- (b) A plan to protect staff and all other occupants of agency facilities from hazards that might be delivered in the mail;
- (c) Operating procedures;
- (d) A plan to provide a visible mail screening operation;
- (e) Training mail center personnel;
- (f) Testing and rehearsing responses to various emergency situations by agency personnel;
- (g) Managing threats;
- (h) Communications plan;
- (i) Occupant Emergency Plan;
- (j) Continuity of Operations Plan; and
- (k) Annual reviews of the agency's security plan.

Reporting Requirements

§ 102–192.85 Who must report to GSA annually?

Large agencies, as defined in § 102–192.35, must provide an annual Mail

Management Report to GSA. If your agency is a cabinet level or independent agency, the agency mail manager must compile all offices or components and submit one report for the department or agency as a whole, for example, the U.S. Department of Defense or the U.S. Department of Health and Human Services.

§ 102–192.90 What must we include in our annual mail management report to GSA?

You must provide an agency-wide response to the GSA requested data elements. GSA will provide the list of data elements in a Federal Management Regulation (FMR) Bulletin. GSA coordinates all mail management related FMR bulletins with the Federal Mail Executive Council and updates them as necessary. FMR bulletins are available at: <http://www.gsa.gov/bulletins>.

§ 102–192.95 Why does GSA require annual mail management reports?

GSA requires annual agency mail management reports to—

- (a) Ensure that Federal agencies have the policies, procedures, and data to manage their mail operations efficiently and effectively;
- (b) Ensure that appropriate security measures are in place; and
- (c) Allow GSA to fulfill its responsibilities under the Federal Records Act, especially with regard to sharing best practices, information on training, and promulgating standards, procedures, and guidelines.

§ 102–192.100 How do we submit our annual mail management report to GSA?

You must submit annual reports using the GSA web based Simplified Mail Accountability Reporting Tool (SMART). Training is available from GSA to agency mail managers and other authorized users on how to use the SMART data reporting system. Contact the Office of Government-wide Policy, Mail Management Policy office for access and training at federal.mail@gsa.gov.

§ 102–192.105 When must we submit our annual mail management report to GSA?

Beginning with FY 2014, the agency's annual mail management report is due on October 31 following the end of the fiscal year.

Performance Measurement Requirements for All Agencies

§ 102–192.110 At what levels in our agency must we have performance measures?

You must have performance measures for mail operations at the agency level and in all mail facilities and program levels.

§ 102–192.115 Why must we use performance measures?

Performance measures gauge the success of your mail management plans and processes by comparing performance over time and among organizations. Performance measures—

- (a) Define goals and objectives;
- (b) Enhance resource allocation; and
- (c) Provide accountability.

Agency Mail Manager Requirements

§ 102–192.120 Must we have an agency mail manager?

Yes, every agency as defined in § 102–192.35, must have an agency mail manager.

§ 102–192.125 What is the appropriate managerial level for an agency mail manager?

The agency mail manager should be at a managerial level that enables him or her to speak for the agency on mail management as outlined in this part.

§ 102–192.130 What are your general responsibilities as an agency mail manager?

In addition to carrying out the responsibilities discussed above, you should—

- (a) Establish written policies and procedures to provide timely and cost effective dispatch and delivery of mail and materials;
- (b) Ensure agency-wide awareness and compliance with standards and operational procedures established by all service providers used by the agency;
- (c) Set policies for expedited mail, mass mailings, mailing lists, and couriers;
- (d) Implement cost savings through:
 - (1) Consolidating and presorting wherever practical, for example, internal and external mail, and consolidation of agency-wide mail operations and official mail facilities; and
 - (2) Reducing the volume of agency to agency mail whenever possible.
- (e) Develop and direct agency programs and plans for proper and cost effective use of transportation, equipment, and supplies used for mail;
- (f) Ensure that all facility and program level mail personnel receive appropriate training and certifications to successfully perform their assigned duties;
- (g) Promote professional certification for mail managers and mail center employees;
- (h) Ensure that expedited mail service providers are used only when authorized by the Private Express Statutes, 39 U.S.C. 601–606;

(i) Establish written policies and procedures to minimize incoming and outgoing personal mail;

(j) Provide guidance to agency representatives who develop correspondence or design mailing materials including Business Reply Mail, letterhead, and mail piece design;

(k) Represent the agency in its relations with service providers, other agency mail managers, and GSA's Office of Government-wide Policy;

(l) Ensure agency policy incorporates Federal hazardous materials requirements set forth in 49 CFR parts 100–185;

(m) Ensure agency sustainable activities become part of the mail program by incorporating strategies in accordance with *Executive Order 13514* of October 5, 2009, "Federal Leadership in Environmental, Energy, and Economic Performance". Section 8 describes the Agency Strategic Sustainability Performance Plan; and

(n) Ensure safety and security requirements specified in §§ 102–192.70 through 102–192.80 are fulfilled.

Subpart C—GSA's Responsibilities and Services

§ 102–192.135 What are GSA's responsibilities in mail management?

44 U.S.C. 2904(b) directs the Administrator of General Services to provide guidance and assistance to Federal agencies to ensure economical and efficient records management. 44 U.S.C. 2901(2) and (4)(C) define the processing of mail by Federal agencies as part of records management. In carrying out its responsibilities under the Act, GSA is required to—

(a) Develop standards, procedures, and guidelines;

(b) Conduct research to improve practices and programs;

(c) Collect and disseminate information on training programs, technological developments, etc;

(d) Establish one or more interagency committees (such as the Federal Mail Executive Council, and the Interagency Mail Policy Council) as necessary to provide an exchange of information among Federal agencies;

(e) Conduct studies, inspections, or surveys;

(f) Promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies; and

(g) In the event of an emergency, at the request of DHS, cooperate with DHS in communicating with agencies about mail related issues.

§ 102–192.140 What types of support does GSA offer to Federal agency mail management programs?

(a) GSA supports Federal agency mail management programs by—

(1) Assisting in the development of agency policy and guidance in mail management and mail operations;

(2) Identifying best business practices and sharing them with Federal agencies;

(3) Developing and providing access to a Government-wide management information system for mail;

(4) Helping agencies develop performance measures and management information systems for mail;

(5) Maintaining a current list of agency mail managers;

(6) Establishing, developing, and maintaining interagency mail committees;

(7) Maintaining liaison with the USPS and other service providers at the national level;

(8) Maintaining a publically accessible Web site for mail communications policy; and

(9) Serving as a point of contact for all Federal agencies on mail issues.

(b) For further information contact: U.S. General Services Administration, Office of Government-wide Policy (MA), 1800 F Street NW., Washington, DC 20504; telephone 202–501–1777, or email: Federal.mail@gsa.gov.

[FR Doc. 2014–13592 Filed 6–10–14; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 10

[NPS–WASO–NAGPRA–15507;
PPWOCRADN0, PCU00RP14.R50000]

RIN 1024–AD98

Native American Graves Protection and Repatriation Act Regulations, Definition of Indian Tribe

AGENCY: Office of the Secretary, Interior.
ACTION: Final rule.

SUMMARY: The Department is confirming the interim final rule published and effective on July 5, 2011, removing the definition of *Indian tribe* because it is inconsistent with the statutory definition of that term. The July 5, 2011, publication stated that we would review comments on the interim final rule and either confirm the rule or initiate a proposed rulemaking. We are confirming the rule without change.

DATES: *Effective Date:* June 11, 2014.

FOR FURTHER INFORMATION CONTACT:
Mail: Dr. Sherry Hutt, Manager, National

NAGPRA Program, National Park Service, 1849 C Street NW., Washington, DC 20240, or by *telephone:* (202) 354–1479; *facsimile:* (202) 371–5197; or *email:* sherry_hutt@nps.gov.

SUPPLEMENTARY INFORMATION:

Authority

The Secretary of the Interior is responsible for implementing the Native American Graves Protection and Repatriation Act (NAGPRA or Act) (25 U.S.C. 3001 *et seq.*), including the issuing of appropriate regulations that interpret the provisions of the Act.

Background

The Act addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. The Act defines *Indian tribe* as any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act) (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 3001(7)).

The Department of the Interior (Department) published the initial rule to implement the Act on December 4, 1995 (60 FR 62158). That rule defined *Indian tribe* to include, in addition to any Alaska Native village, any Alaska Native corporation.

From July 2009 to July 2010, at the request of Congress, the Government Accountability Office (GAO) conducted a performance audit to address the status of NAGPRA implementation among Federal agencies. In its report, “Native American Graves Protection and Repatriation Act: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act” (Report no. GAO–10–768 (July 2010)) the GAO recommended, among other things, that the National NAGPRA Program, in conjunction with the Department’s Office of the Solicitor, reassess whether any Alaska Native corporations should be considered as “eligible entities for purposes of carrying out NAGPRA . . .” (GAO Report, at 55).

The recommendation and analysis in the report created significant uncertainty on the part of museums and Federal agencies concerning the status of Alaska Native corporations under NAGPRA. The Department received a number of questions including whether Alaska Native corporations may assert

claims for human remains and other cultural items; whether the NAGPRA requirements for consultation with Indian tribes apply to Alaska Native corporations; whether Alaska Native corporations are authorized under the law to bring matters to the NAGPRA Review Committee; and whether Alaska Native Corporations can be recipients of grants authorized by NAGPRA.

To address these questions, and as recommended by GAO, the Department’s Office of the Solicitor examined the legal basis for the existing regulatory provision that included Alaska Native corporations as Indian tribes under the Act. The opinion of the Solicitor’s Office is posted on the National NAGPRA Program’s Web site at <http://www.nps.gov/history/nagpra>.

The Solicitor’s Office found that in the Act, Congress did not adopt the definition of *Indian tribe* as it is defined in the Indian Self-Determination and Education Assistance Act (ISDEAA) (25 U.S.C. 450b). Although the ISDEAA definition includes Alaska Native corporations, the NAGPRA definition does not. According to the legislative history of NAGPRA, the definition of *Indian tribe* in the Act was deliberately changed from that in the ISDEAA in order to “delete [] land owned by any Alaska Native Corporation from being considered as ‘tribal land’” (136 Cong. Rec. 36,815 (1990)). Accordingly, the Solicitor’s Office recommended that the regulatory definition of *Indian tribe* be changed to conform to the statutory definition.

In response to the Solicitor’s Office recommendation, the Department published an interim final rule that removed and reserved paragraph (b)(2) of 43 CFR 10.2 that had contained the regulatory definition of *Indian tribe* (76 FR 39007, July 5, 2011). The interim final rule also contained a request for comments, and for good cause made the interim final rule effective upon publication in the **Federal Register**. This good-cause finding was based on the uncertainty caused by the July 2010 GAO NAGPRA report and the need to ensure compliance with the requirements of the Act. Since then, the Department has been using only the statutory definition of *Indian tribe* to implement the Act.

We received one written comment during the 60-day comment period from one member of the public. The commenter supported the removal of the definition of *Indian tribe*.