

date, from a private citizen. The comment did not address the removal of Panama from the list of regions where screwworm is considered to exist.

Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This final rule amends the regulations regarding the importation of live horses, ruminants, swine, and dogs by removing Panama from the lists of regions where screwworm is considered to exist. We are taking this action because the eradication of screwworm from Panama has been confirmed. This action will relieve certain screwworm-related certification and inspection requirements for live animals imported into the United States from Panama.

No significant change in program operations is anticipated as a result of this rule, nor will this action affect other Federal agencies, State governments, or local governments. The cost of all technical support activities, including establishment of animal quarantine control measures, treatment stations, maintenance of livestock census, screwworm surveillance, establishment and maintenance of laboratory support, and aerial dispersion of sterile screwworm flies in Panama is provided by the Commission for the Eradication and Prevention of Screwworm and the cooperative agreement funded by the U.S. Department of Agriculture and Panama's Ministry of Agriculture and Livestock Development. When importing live animals from a region where screwworm is considered to exist, the cost of any required testing (and treatment, if needed) is paid by the owner of the animals being shipped. Our removal of Panama from the list of regions where screwworm is considered to exist will reduce the cost for producers and others in Panama to export ruminants, swine, horses, and dogs to the United States.

The economic effects associated with this rule are likely to be limited. This is because the number of live animals exported into the United States from Panama is likely to remain small. Trade statistics indicate that since 2001, the United States has not imported any ruminants, swine, or dogs from Panama. Equine imports from Panama over this period have numbered only 163, which

is approximately 0.06 percent of all horse imports.<sup>2</sup>

According to Small Business Administration size standards for beef cattle ranching and farming (North American Industry Classification System (NAICS) 112111), dairy cattle and milk production (NAICS 112120), hog and pig farming (NAICS 112210), sheep farming (NAICS 112410), goat farming (NAICS 112420),<sup>3</sup> and horse and other equine production (NAICS 112920), as well as the commercial production of dogs, which is classified under "all other animal production" (NAICS 112990), operations with not more than \$750,000 in annual sales are considered small entities. We do not expect that these producers, small or otherwise, will be affected significantly by the change in Panama's screwworm status. This is because, for the reasons discussed above, live ruminants, swine, horses, and dogs from Panama do not play much, if any, of a role in their operations, and few susceptible live animals are expected to be exported.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### **Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### **Paperwork Reduction Act**

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 9 CFR Part 93**

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 93 as follows:

<sup>2</sup> Based on U.S. Census Bureau data, as presented by Foreign Agricultural Service, USDA: [http://www.fas.usda.gov/ustrade/USTImHS10.asp?QI=online\\_trade\\_dataTRAD](http://www.fas.usda.gov/ustrade/USTImHS10.asp?QI=online_trade_dataTRAD).

<sup>3</sup> The "all other animal production" classification also includes the production of other animals, such as adornment birds (swans, peacocks, flamingos), alpacas, birds for sale, buffalos, cats, crickets, deer, elk, laboratory animals, llamas, rattlesnakes, worms, and breeding of pets.

### **PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS**

■ 1. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

#### **§ 93.301 [Amended]**

■ 2. In § 93.301, paragraph (j) is amended by removing the word "Panama,".

#### **§ 93.405 [Amended]**

■ 3. In § 93.405, paragraph (a)(3) is amended by removing the word "Panama,".

#### **§ 93.505 [Amended]**

■ 4. In § 93.505, paragraph (b) is amended by removing the word "Panama,".

#### **§ 93.600 [Amended]**

■ 5. In § 93.600, paragraph (a) is amended by removing the word "Panama,".

Done in Washington, DC, this 25th day of August 2008.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8–20116 Filed 8–28–08; 8:45 am]

BILLING CODE 3410–34–P

### **GENERAL SERVICES ADMINISTRATION**

#### **41 CFR Part 102–39**

[FMR Amendment 2008–07; FMR Case 2007–102–1; Docket 2007–0001; Sequence 3]

RIN 3090–AI38

#### **Federal Management Regulation; FMR Case 2007–102–1, Replacement of Personal Property Pursuant to the Exchange/Sale Authority**

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

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration is amending the Federal Management Regulation (FMR) by updating coverage on the replacement of personal property pursuant to the exchange/sale authority. The changes were prompted by recommendations of

the Federal Asset Management Evaluation (FAME) interagency working group led by GSA.

**DATES:** This final rule is effective August 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Robert Holcombe, Office of Governmentwide Policy, Office of Travel, Transportation, and Asset Management (MT), (202) 501-3828 or e-mail at [Robert.Holcombe@gsa.gov](mailto:Robert.Holcombe@gsa.gov). For information pertaining to status or publication schedules contact the Regulatory Secretariat, 1800 F Street, NW, Room 4035, Washington, DC, 20405, (202) 501-4755. Please cite FMR Amendment 2008-07, FMR case 2007-102-1.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

The General Services Administration's (GSA's) Office of Governmentwide Policy (OGP) facilitated the interagency Federal Asset Management Evaluation (FAME) initiative during 2004 and 2005. Discussions with GSA's Federal customers during this initiative revealed a perception that there were too many unnecessary restrictions and "hurdles" hindering the effective use of this authority. One of the recommendations of the FAME report (March 31, 2005) was to "increase the flexibility of the exchange/sale program to promote the use of this authority throughout the Government."

A proposed rule was published in the **Federal Register** on December 11, 2007 (72 FR 70266). Two Federal agencies provided comments. Those comments and GSA's response to the comments are as follows:

*Comment:* One comment questioned the need to expand the discussion of deviations to the exchange/sale regulations; particularly, which regulatory provisions are or are not subject to deviation. It was also noted that other GSA asset management regulations do not describe deviations to this extent.

*GSA Response:* FMR 102-39.25 is being added to clarify which regulatory provisions are subject to deviation. This is due to numerous questions received by GSA/OGP on this topic. Also, in contrast to the other GSA asset management regulations, most of the restrictions found in FMR 102-39 are not required by statute and therefore are subject to deviation where beneficial to the Federal Government. GSA has made no changes as a result of this comment.

*Comment:* One comment suggested that the answer to FMR 102-39.40 could

be interpreted as requiring agencies to use the exchange/sale authority.

*GSA Response:* Agencies are not required to use the exchange/sale authority. In order to eliminate any confusion, GSA has clarified that agencies should consider using this authority. The text of FMR 102-39.40 has been modified in this final rule.

*Comment:* One comment questioned the discussion in FMR 102-39.40 comparing the retention of sales proceeds under the exchange/sale authority to the retention of sales proceeds when selling surplus property. The comment also indicated that use of the exchange/sale authority constitutes an illegal augmentation of appropriations.

*GSA Response:* The discussion of the handling of exchange/sale sales proceeds vs. surplus sales proceeds has been in the exchange/sale regulations for over 10 years. That discussion is included for the benefit of GSA's customers who are not aware of the difference. In summary, if an agency has a continuing need for an item, the agency may exchange or sell the item and use the proceeds to acquire a similar replacement item. Under that scenario, the agency should not report the item as excess. Also, the exchange/sale authority is NOT an illegal augmentation of appropriations; rather, the law expressly authorizes the use of sales proceeds in the acquisition of a similar item. GSA has made no changes as a result of this comment.

*Comment:* One comment objected to the language in a sentence being added to FMR 102-39.40 to explain to readers that exchange allowances and sales proceeds may only be used to offset the cost of replacement property, not services. The language at issue specifically addresses the use of exchange allowances and sales proceeds in the context of a contract for services.

*GSA Response:* It is essential to include this language so readers are clear that under a contract for services arrangement (which is fairly common with respect to certain types of personal property), exchange allowances and sales proceeds can only be used for property acquired under the contract, not services acquired under the contract. GSA has made no changes as a result of this comment.

*Comment:* One comment questioned an exception provided in FMR 102-39.60 for the handling of certain Department of Defense (DOD) property under the exchange/sale authority.

*GSA Response:* The exception at issue has been in the exchange/sale regulations for over six years. The exception exists because the DOD

property concerned is generally not suitable for transfer to other Federal agencies or donation to State Agencies for Surplus Property. Also, DOD regulations sufficiently control the disposition of such property (e.g., through requirements contained in the DOD 4160.21-M policies). GSA has made no changes as a result of this comment.

*Comment:* One comment objected to the elimination of a requirement in FMR 102-39.65 that the number of items acquired must equal the number of items exchanged or sold unless certain exceptions are met.

*GSA Response:* GSA is eliminating this requirement for several reasons. First, it is not required by statute. Also, through GSA's meetings and discussions with Federal agencies over recent years, GSA found that there is a great deal of confusion about the exceptions to the one-for-one requirement. Finally, GSA is aware of many instances where an agency would like to adhere to the requirement and replace property on a one-for-one basis but the agency is unable to receive sufficient funds from the sale and therefore has to ask GSA for a deviation from this requirement. This creates an administrative burden for agencies to prepare deviation requests and for GSA to process those requests. As the statute does not require the one-for-one requirement, GSA almost always approves such requests (as long as all other applicable requirements are met). GSA has made no changes as a result of this comment.

*Comment:* One comment objected to the addition of a requirement to FMR 102-39.85 that Federal agencies must report annually to GSA on property acquired under the exchange/sale authority.

*GSA Response:* GSA has reconsidered this proposed change, and will not go forward with it at this time.

*Comment:* Finally, two comments were based on a misunderstanding of how the proposed rule was presented. The proposed rule showed only the fourteen proposed changes to the FMR and the text affected by those changes. The proposed rule did not show text which is not being revised (except in some cases where immediately adjacent text was shown).

*GSA Response:* GSA has made no changes as a result of these comments.

##### **B. Executive Order 12866**

This regulation is excepted from the definition of "regulation" or "rule" under Section 3(d)(3) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993 and,

therefore, was not subject to review under Section 6(b) of that Executive Order.

### C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment as per the exemption specified in 5 U.S.C. 553 (a)(2); therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because these final changes to the FMR do 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 102–39

Government property management, Reporting and recordkeeping requirements, and Government property.

Dated: June 23, 2008.

David L. Bibb,

Acting Administrator of General Services.

■ For the reasons set forth in the preamble, GSA amends 41 CFR part 102–39 as set forth below:

### PART 102–39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

■ 1. The authority citation for 41 CFR part 102–39 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 40 U.S.C. 503.

#### § 102–39.50 [Removed]

■ 2. Remove § 102–39.50.

#### § 102–39.55 [Removed]

■ 3. Remove § 102–39.55.

#### §§ 102–39.5, 102–39.15, 102–39.25, 102–39.30, 102–39.35, 102–39.40, 102–39.45, 102–39.60, 102–39.65, 102–39.70, 102–39.75 [Redesignated]

■ 4. Redesignate §§ 102–39.5, 102–39.15, 102–39.25, 102–39.30, 102–39.35, 102–39.40, 102–39.45, 102–39.60, 102–39.65, 102–39.70, 102–39.75 as follows:

Old section	New section
102–39.5	102–39.15
102–39.15	102–39.40
102–39.25	102–39.30
102–39.30	102–39.45

102–39.35	102–39.50
102–39.40	102–39.55
102–39.45	102–39.60
102–39.60	102–39.70
102–39.65	102–39.75
102–39.70	102–39.80
102–39.75	102–39.85

■ 5. Add new § 102–39.5 to read as follows:

#### § 102–39.5 What is the exchange/sale authority?

The exchange/sale authority is a statutory provision, (40 U.S.C. 503), which states in part: “In acquiring personal property, an executive agency may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in whole or in part payment for the property acquired.”

■ 6. Amend § 102–39.20 by revising the definitions of the terms “Acquire”, “Replacement”, and “Similar”; and, by alphabetically adding the terms and definitions “Excess property”, “Service Life Extension Program (SLEP)”, and “Surplus property” to read as follows:

#### § 102–39.20 What definitions apply to this part?

\* \* \* \* \*

*Acquire* means to procure or otherwise obtain personal property, including by lease (sometimes known as rent).

\* \* \* \* \*

*Excess property* means any personal property under the control of any Federal agency that is no longer required for that agency’s needs or responsibilities, as determined by the agency head or designee.

\* \* \* \* \*

*Replacement* means the process of acquiring personal property to be used in place of personal property that is still needed but:

(1) No longer adequately performs the tasks for which it is used; or

(2) Does not meet the agency’s need as well as the personal property to be acquired.

*Service Life Extension Program (SLEP)* means the modification of a personal property item undertaken to extend the life of the item beyond that which was previously planned. SLEPs extend capital asset life by retrofit, major modification, remanufacturing, betterment, or enhancement.

*Similar* means the acquired item(s) and replaced item(s):

(1) Are identical; or

(2) Fall within a single Federal Supply Classification (FSC) Group of property (includes any and all forms of property within a single FSC Group); or

(3) Are parts or containers for similar end items; or

(4) Are designed or constructed for the same purpose (includes any and all forms of property regardless of the FSC Group to which they are assigned).

*Surplus property* means excess personal property not required for the needs of any Federal agency, as determined by GSA under part 102–37 of this chapter.

■ 7. Add new § 102–39.25 to Subpart A to read as follows:

#### § 102–39.25 Which exchange/sale provisions are subject to deviation?

All of the provisions in this part are subject to deviation (upon presentation of adequate justification) except those mandated by statute. See the link on “Exchange/Sale” at [www.gsa.gov/personalpropertypolicy](http://www.gsa.gov/personalpropertypolicy) for additional information on requesting deviations from this part.

■ 8. Revise newly redesignated § 102–39.30 to read as follows:

#### § 102–39.30 How do I request a deviation from this part?

See part 102–2 of this chapter (41 CFR part 102–2) to request a deviation from the requirements of this part.

■ 9. Add new § 102–39.35 to Subpart B to read as follows:

#### § 102–39.35 When should I consider using the exchange/sale authority?

You should consider using the exchange/sale authority when replacing personal property.

■ 10. Transfer newly redesignated § 102–39.40 to Subpart B and revise the section to read as follows:

#### § 102–39.40 Why should I consider using the exchange/sale authority?

You should consider using the exchange/sale authority to reduce the cost of replacement personal property. When you have personal property that is wearing out or obsolete and must be replaced, you should consider either exchanging or selling that property and using the exchange allowance or sales proceeds to offset the cost of the replacement personal property. Conversely, if you choose not to replace the property using the exchange/sale authority, you may declare it as excess and dispose of it through the normal disposal process as addressed in part 102–36 of this chapter. Keep in mind, however, that any net proceeds from the eventual sale of that property as surplus generally must be forwarded to the miscellaneous receipts account at the United States Treasury and thus would not be available to you. You may use the exchange/sale authority in the acquisition of personal property even if the acquisition is under a services contract, as long as the property

acquired under the services contract is similar to the property exchanged or sold (e.g., for a SLEP, exchange allowances or sales proceeds would be available for replacement of similar items, but not for services).

■ 11. Amend newly redesignated § 102–39.55 by revising the section heading to read as follows:

**§ 102–39.55 When should I offer property I am exchanging or selling under the exchange/sale authority to other Federal agencies or State Agencies for Surplus Property (SASP)?**

\* \* \* \* \*

■ 12. Amend newly redesignated § 102–39.60 by revising the section heading, the introductory text, paragraph (a), the note to paragraph (a), and paragraph (i) to read as follows:

**§ 102–39.60 What restrictions and prohibitions apply to the exchange/sale of personal property?**

Unless a deviation is requested of and approved by GSA as addressed in part 102–2 of this chapter and the provisions of §§ 102–39.25 and 102–39.30, you must not use the exchange/sale authority for:

(a) The following FSC groups of personal property:

- 10 Weapons.
- 11 Nuclear ordnance.
- 12 Fire control equipment.
- 14 Guided missiles.
- 15 Aircraft and airframe structural components (except FSC Class 1560 Airframe Structural Components).
- 42 Firefighting, rescue, and safety equipment.
- 44 Nuclear reactors (FSC Class 4470 only).
- 51 Hand tools.
- 54 Prefabricated structure and scaffolding (FSC Class 5410 Prefabricated and Portable Buildings, FSC Class 5411 Rigid Wall Shelters, and FSC Class 5419 Collective Modular Support System only).
- 68 Chemicals and chemical products, except medicinal chemicals.
- 84 Clothing, individual equipment, and insignia.

**Note to § 102–39.60(a):** Under no circumstances will deviations be granted for FSC Class 1005, Guns through 30mm. Deviations are not required for Department of Defense (DoD) property in FSC Groups 10 (for classes other than FSC Class 1005), 12 and 14 for which the applicable DoD demilitarization requirements, and any other applicable regulations and statutes are met.

\* \* \* \* \*

(i) Flight Safety Critical Aircraft Parts (FSCAP) and Critical Safety Items (CSI)

unless you meet the provisions of § 102–33.370 of this title.

\* \* \* \* \*

■ 13. New § 102–39.65 is added to Subpart B to read as follows:

**§ 102–39.65 What conditions apply to the exchange/sale of personal property?**

You may use the exchange/sale authority only if you meet all of the following conditions:

- (a) The property exchanged or sold is similar to the property acquired;
- (b) The property exchanged or sold is not excess or surplus and you have a continuing need for similar property;
- (c) The property exchanged or sold was not acquired for the principal purpose of exchange or sale;
- (d) When replacing personal property, the exchange allowance or sales proceeds from the disposition of that property may only be used to offset the cost of the replacement property, not services; and
- (e) Except for transactions involving books and periodicals in your libraries, you document the basic facts associated with each exchange/sale transaction. At a minimum, the documentation must include:

- (1) The FSC Group of the items exchanged or sold, and the items acquired;
- (2) The number of items exchanged or sold, and the number of items acquired;
- (3) The acquisition cost and exchange allowance or net sales proceeds of the items exchanged or sold, and the acquisition cost of the items acquired;
- (4) The date of the transaction(s);
- (5) The parties involved; and
- (6) A statement that the transactions comply with the requirements of this part 102–39.

**Note to § 102–39.65:** In acquiring items for historical preservation or display at Federal museums, you may exchange historic items in the museum property account without regard to the FSC group, provided the exchange transaction is documented and certified by the head of your agency to be in the best interests of the Government and all other provisions of this part are met. The documentation must contain a determination that the item exchanged and the item acquired are historic items.

■ 14. Revise newly redesignated § 102–39.80 to read as follows:

**§ 102–39.80 What are the accounting requirements for exchange allowances or proceeds of sale?**

You must account for exchange allowances or proceeds of sale in accordance with the general finance and accounting rules applicable to you. Except as otherwise authorized by law,

all exchange allowances or proceeds of sale under this part will be available during the fiscal year in which the property was sold and for one fiscal year thereafter for the purchase of replacement property. Any proceeds of sale not applied to replacement purchases during this time must be deposited in the United States Treasury as miscellaneous receipts.

[FR Doc. E8–19892 Filed 8–28–08; 8:45 am]

BILLING CODE 6820–14–S

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Parts 206 and 207**

[Docket ID FEMA–2006–0035]

RIN 1660–AA21

**Management Costs**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Reopening of comment period.

**SUMMARY:** The Management Cost Interim Rule implemented the management cost provisions in section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended. The Federal Emergency Management Agency (FEMA) is reopening the public comment period on its Management Cost Interim Rule. FEMA is taking this action to solicit data from grantees and subgrantees to use in reevaluating the fixed management cost rates established in the rule.

**DATES:** Comments are due on or before September 29, 2008.

**ADDRESSES:** You may submit comments, identified by Docket ID FEMA–2006–0035, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [FEMA-RULES@dhs.gov](mailto:FEMA-RULES@dhs.gov). Include Docket ID FEMA–2006–0035 in the subject line of the message.

*Fax:* 866–466–5370.

*Mail/Hand Delivery/Courier:* Rules Docket Clerk, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:**

Jonna M. Long, Office of the Chief Financial Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, 202–646–7057, (facsimile) (202) 646–4268 (phone), or (e-mail) [jonna.long@dhs.gov](mailto:jonna.long@dhs.gov).