pyridinyl]oxy]phenoxy]propanoic acid, expressed as fluazifop, in or on the commodity''.

TABLE 2 TO PARAGRAPH (c)

Commodity	Parts per million
Asparagus	3.0
Coffee, bean	0.1
Fescue, forage	4.0
Fescue, hay	15
Pepper, tabasco	1.0

(d) *Indirect or inadvertent residues.* Tolerances are established for residues of the herbicide fluazifop-P-butyl, butyl (2*R*)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate, including its metabolites and degradates, in or on the commodities in table 3 to this paragraph (d). Compliance with the tolerance levels specified in table 3 is to be determined by measuring only those fluazifop-P-butyl residues convertible to 5-trifluoromethyl-2-pyridinone (TFP), expressed as TFP, in or on the commodity.

TABLE 3 TO PARAGRAPH (d)

Commodity	Parts per million
Corn, field, forage	0.01
Corn, field, grain	0.01
Corn, field, stover	0.015

[FR Doc. 2023–08939 Filed 4–26–23; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–39

[FMR Case 2019–102–01; Docket No. GSA–FMR–2019–0015, Sequence No. 2]

RIN 3090–AK11

Federal Management Regulation; Replacement of Personal Property Pursuant to the Exchange/Sale Authority

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

ACTION: Final rule.

SUMMARY: GSA is issuing a final rule amending the Federal Management Regulation (FMR) to clarify the exchange/sale provisions and improve the application of this important authority across Federal agencies. The related FMR Part, Replacement of Personal Property Pursuant to the Exchange/Sale Authority, was last revised in November of 2011.

DATES: *Effective:* May 30, 2023.

FOR FURTHER INFORMATION CONTACT: William Garrett, Director, Personal Property Policy Division, Office of Government-wide Policy, Office of Asset and Transportation Management (MA), at 202–368–8163 or *william.garrett@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FMR Case 2019–102–01.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends the Federal Management Regulation (FMR) to update current policy and remove outdated and unnecessary information as proposed with changes published on February 18, 2022 at 87 FR 9303. These changes, made as a result of public comments, are detailed in section II.B. of this notice. In 2018, the Government Accountability Office (GAO) Report 19–33, ''GSA and VA Have Opportunities to Improve the Exchange/Sale Process'', identified confusion among some agencies on the use of the exchange/sale authority which could be alleviated by, among other actions, revising FMR Part 102–39.

Personal property includes a wide variety of Government items such as computers, office equipment, furniture, and vehicles, as well as more specialized items specific to agencies, such as medical equipment for the U.S. Department of Veterans Affairs (VA) and medical helicopters for the U.S. Army. The Federal Government owns and manages more than a trillion dollars of personal property. In Fiscal Year (FY) 2021, Federal agencies reported approximately $1.9 trillion in capitalized personal property assets under their control. Over time, agencies' personal property may no longer adequately perform the task for which it was acquired. Title 40, United States Code (U.S.C.), section 503 authorizes agencies to exchange (trade-in) or sell such property still needed to meet mission needs and apply the exchange allowance or sale proceeds to acquire similar replacement property.

Such transactions are known as personal property ''exchange/sale'' transactions. These transactions facilitate the replacement of personal property by allowing agencies to offset the cost of new, similar property, resulting in savings to agency funds. Without this authority, agencies would have to expend the full purchase price of new personal property from appropriations, while depositing the proceeds from the disposition of worn property in the U.S. Treasury. Because exchange/sale transactions provide agencies with opportunities to save costs, it is important that agencies using this authority establish policies, processes, and procedures with effective controls, in order to ensure that they meet applicable requirements and are good stewards of Government resources.

GSA's regulations at 41 Code of Federal Regulations (CFR) part 102–39 describe the terms, conditions, and reporting requirements for personal property exchanged or sold under this authority. The personal property exchange/sale authority allows agencies to replace property that is not excess or surplus, *i.e.,* the property is still needed to meet the agency's continuing mission. In addition, agencies must meet the following requirements to use the exchange/sale authority:

- The property exchanged or sold is similar to the property acquired.
- The personal property exchanged or sold was not acquired for the principal purpose of later exchanging it or selling it using the authority. For example, an agency cannot purchase a more costly piece of equipment than necessary to meet mission needs for the sole reason that it will deliver a higher value when sold using this exchange/sale authority.
- Exchange allowances and sales proceeds can only be put toward the purchase of similar replacement property and cannot be used for services. In other words, an agency can use proceeds from the sale of a vehicle to purchase a new vehicle, but it cannot use proceeds to hire a mechanic to repair an existing vehicle.
- Exchange allowances and sales proceeds are available during the same fiscal year (FY) the property was exchanged or sold and the following FY. This means that for an item sold in FY 2023, an agency has the rest of FY 2023, as well as FY 2024 to purchase a replacement item. If agencies do not spend these funds by the end of the next FY, monies are to be deposited in the U.S. Treasury as miscellaneous receipts, except as otherwise authorized by law. Such legal authority may, for example, take the form of an authorized revolving fund where the rules of the program allow use of funds beyond the restrictions of the FMR.
- Agencies are prohibited from using the authority to replace certain types of property as detailed in FMR § 102–39.60 (weapons, nuclear ordinances, etc.).

Agencies may choose between two transaction methods to replace property, the exchange (trade-in) method or the sale method, but must determine which method provides the greatest return to the Government, including factoring in administrative and overhead expenses. A typical exchange occurs when the original manufacturer delivers a replacement item to the agency and removes the item being replaced. The manufacturer applies a trade-in credit (an allowance) for the purchase of the replacement item. If the sale method is used, the agency receives the sale proceeds for the sale of the item and applies those proceeds to the purchase of the replacement personal property.

If contemplating an exchange/sale, agencies are guided to follow a process similar to the disposal process for excess property by making it available to other Federal agencies and state agencies by posting it to GSAXcess at *https://gsaxcess.gov/.* This is GSA's website for reporting, searching, and selecting property. This process allows other Federal agencies or state agencies to obtain the property for the price required by the reporting agency to help fund the acquisition of replacement property under the exchange/sale authority.

Agencies are required to submit a summary report to GSA through the GSA Personal Property Reporting Tool (PPRT), *https://www.property.reporting.gov,* at the end of each FY on the type, the quantity, the exchange allowances and/or sale proceeds, as applicable, and the original acquisition cost of items for both exchange and sale transactions. Agencies with no transactions during a FY must submit a negative report. Ultimately, agencies decide whether to use the exchange/sale authority to replace personal property in their inventories.

II. Discussion of the Final Rule

A. Summary of Significant Changes

The definition for ''similar'' in FMR § 102–39.20 is revised to include items designed or constructed for the same general purpose. A Note is also added to clarify that only one of the criteria in this definition needs to be met for the property to be considered ''similar'' for an exchange/sale transaction.

FMR § 102–39.25 is revised to allow deviations to the exchange/sale provisions except for those mandated by statute or otherwise described in the part, including FMR § 102–39.80, which details the accounting requirements for exchange allowances and sales proceeds.

FMR § 102–39.40 is revised to clarify the differences between the use of the exchange/sale authority and the disposal process for excess/surplus personal property. The primary difference is that personal property disposal under the excess/surplus process does not allow for the use of proceeds or allowances (if any), in acquiring replacement similar assets. Exchange/sale property is replacement property that is non-excess and nonsurplus, meaning the agency has a continuing need for the property, but the specific item(s) are no longer suitable to the need and must be replaced, and therefore are not reported to GSA as excess or surplus for transfer or donation purposes.

The following Federal Supply Classification (FSC) Groups are removed from the ''prohibited list'' at FMR § 102–39.60:

- *FSC Group 42:* Firefighting, rescue, and safety equipment;
- *FSC Group 51:* Hand tools; and
- *FSC Group 54:* Prefabricated structure and scaffolding (FSC 5410 Prefabricated and Portable Buildings, FSC 5411 Rigid Wall Shelters, and FSC 5419 Collective Modular Support System only).

The restrictions remaining in FMR § 102–39.60 involve assets which are inherently dangerous or could pose a significant public health or safety concern, comprising assets in the following FSC Groups of personal property:

- 10 Weapons.
- 11 Nuclear ordnance.
- 44 Furnace, Steam Plant, and Drying Equipment; and Nuclear Reactors (FSC Class 4470, Nuclear Reactors only);
- *FSC Group 84:* Clothing, individual equipment, and insignia; and
- 68 Chemical and chemical products.

This change also removes ''except medicinal chemicals'' from FMR § 102–39.60 as they are categorized under FSG 65, not FSG 68.

FMR § 102–39.65 is revised to clarify that an exchange or sale under this part may occur after the acquisition of the replacement property. For example, if a Magnetic Resonance Imaging (MRI) machine is needed for use daily, the replacement machine may be acquired and installed before the existing machine is removed and exchanged or sold. If the existing machine is sold, in accordance with agency policy, the funds may be returned to the appropriation used to acquire the replacement machine. If the existing machine is exchanged, in accordance with agency policy, the agency agreement with the entity providing the replacement must document the responsibilities of both parties to execute this transaction.

FMR § 102–39.80 is revised to add language that no deviations will be granted for this section.

FMR § 102–39.85 is revised to update the reporting policy and process to reflect the use of a new online reporting tool.

FMR § 102–39.90 is added in accordance with the recommendations of GAO report 19–33 to provide additional guidance to Federal agencies regarding the publication of GSA Bulletins, including Bulletin B–48, Guidance on Exchange/Sale Financial Accounting for Personal Property, and updates to GSA's exchange/sale website.

According to GSA's annual summary data, 27 agencies reported using the exchange/sale authority and received a total of about $2.8 billion in exchange allowances or sale proceeds from fiscal year 2016 through fiscal year 2020. While many agencies used the authority, a few agencies, particularly GSA, together accounted for about 88 percent of all allowances and proceeds. Specifically, 5 of 27 agencies reported nearly all exchange allowances and sale proceeds. GSA accounted for about $1.5 billion of about $2.8 billion (or about 55 percent) of reported allowances and proceeds across the Federal Government. Four other agencies—the Departments of Homeland Security, Agriculture, Defense, and the Interior—accounted for about $899 million (or about 32 percent) of the total. The other 22 agencies using the authority reported about $340 million (or about 12 percent) in exchange allowances or sales proceeds over the 5-year period. Finally, agencies reported using the sale method more than the exchange method. Sales by agencies accounted for about $2.5 billion (or about 91 percent), while use of the exchange method accounted for about $247 million (or about 9 percent) of total transactions reported, primarily due to GSA's reporting more use of the sale method over the exchange method.

While some agencies reported hundreds of millions of dollars in exchange allowances and sale proceeds, the data show that 8 Federal agencies—including the Department of Labor and the Office of Personnel Management—reported relatively few transactions, which totaled less than $200,000 in exchange allowances and sales proceeds.

By using the exchange/sale authority, agencies have an opportunity to be good stewards of government property by efficiently replacing needed property, including high-value items, that serves critical and continuing requirements to meet agency missions. GSA expects these amendments to increase agency flexibility and understanding of this program. GSA believes these amendments will help agencies take better advantage and increase the use of this authority, thereby becoming more effective stewards of government property and replenishing property more efficiently.

B. Analysis of Public Comments

The proposed rule was published in the **Federal Register** on February 18, 2022 (87 FR 9303). Comments were received from six respondents, some of which included multiple questions, comments, or concerns. Of the comments received, there were five topics germane to and within the scope of the final rule. An analysis of these public comments follows:

Comment: Five respondents expressed concerns about the proposed revision to one of the criteria of the definition of ''similar'' in FMR § 102–39.20 to require that replacement property fall within a defined Federal Supply Classification (FSC), instead of the current, broader FSC Group. In particular, many objected that the revision would negatively impact agency missions and place extensive administrative and financial burden on their aviation, vehicle, and maritime programs.

Response: Agree. Revising the definition of ''similar'' to more narrowly tailor one of the criteria of ''similar'' to require that replacement property fall within a defined 4-digit Federal Supply Classification is unduly restrictive. The proposed revision to FMR § 102–39.20(2) was removed and is not included in the final rule.

Comment: In addition to the concern addressed directly above, one respondent suggested also adding ''capability'' to the definition of ''similar'' in FMR § 102–39.20(4).

Response: Disagree. GSA informed the commenting agency that the proposed revision to FMR § 102–39.20(2) was removed from the final rule. The commenting agency still recommended adding capability to FMR § 102–39.20(4), but does not object to leaving FMR § 102–39.20(4) as is. As a result, GSA chose to maintain the language of the proposed rule. Additionally, an item only needs to meet one of the four criteria of the definition of ''similar.''

Comment: One respondent opposed prohibiting deviations to FMR § 102–39.80, which states exchange allowances or proceeds of sale will be available during the fiscal year in which the property was exchanged or sold and for one fiscal year thereafter for the purchase of replacement property.

Response: Disagree. GSA does not have the authority to alter an agency's applicable fiscal law constraints as determined by the GAO, and therefore, cannot extend the availability of funds. Please refer to the GAO, Principles of Federal Appropriations Law, 3rd ed., 2008 rev., ch. 12, sec. A.4, GAO–08–978SP (Washington, DC: Sept. 2008). The regulation does, however, recognize that agencies may be allowed to retain allowances or proceeds ''as authorized by law.'' GSA accordingly recommends that agencies consult their respective Offices of Chief Financial Officer and Offices of the General Counsel, as well as their Office of Management and Budget Resource Management Officers, as necessary, on the use and availability of these funds.

Comment: One respondent suggested that GSA should eliminate the proposed revision to FMR § 102–39.60, which would remove the following FSC Groups from the prohibited list: FSC Groups 42, Firefighting, rescue, and safety equipment; 51, Hand tools; and 54, Prefabricated structure and scaffolding (FSC 5410 Prefabricated and Portable Buildings, FSC 5411 Rigid Wall Shelters, and FSC 5419 Collective Modular Support System only).

Response: Disagree. The removal of the aforementioned FSC Groups will allow agencies to recoup funds for vital programs to support their agency missions. The remaining restrictions on the prohibited list involve assets which are inherently dangerous or pose a significant public health or safety concern.

Comment: One respondent suggested that GSA should add additional reporting requirements to FMR § 102–39.85. Specifically, the respondent suggested agencies should be required to include the four-digit FSC and the item nomenclature as part of the annual exchange/sale report.

Response: Disagree. As explained above under paragraph A of this section, the proposed revisions to FMR § 102–39.20(2) were removed and are not included in the final rule; therefore, collecting data at the 4-digit FSC Group level is not warranted.

C. Expected Cost Impact to the Public

There is no expected cost to the public from this rule, as this rule is largely administrative. The changes will clarify the exchange/sale provisions and improve the application of this important authority across Federal agencies.

III. 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. The Office of Information and Regulatory Affairs (OIRA) has determined that this is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

IV. Congressional Review Act

OIRA has determined that this rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). Additionally, this rule is excepted from Congressional Review Act reporting requirements prescribed under 5 U.S.C. 801 since it relates to agency management or personnel under 5 U.S.C. 804(3).

V. 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 it applies to agency management or personnel. Therefore, an Initial Regulatory Flexibility Analysis has not been performed.

VI. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* Reporting requirements are only addressed to Federal agencies regarding their Federal personal property transactions.

List of Subjects in 41 CFR Part 102–39

Excess and surplus Government property, Government property management.

Robin Carnahan,

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 continues to read as follows:

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

■ 2. Amend § 102–39.20 in the definition ''Similar'' by revising paragraph (4) and adding a note to read as follows:

§ 102–39.20 What definitions apply to this part?

* * * * *

Similar * * *

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

Note 1 to the definition of ''similar'': Only one of the criteria in this definition needs to be met for the property to be considered ''similar'' for an exchange/sale transaction.

* * * * *

■ 3. Amend § 102–39.25 by revising the first sentence 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 for those mandated by statute, as described in note 1 to § 102–39.60(a) and § 102–39.80. * * *

■ 4. Revise § 102–39.40 to read as follows:

§ 102–39.40 How does the exchange/sale authority differ from the disposal process for excess/surplus personal property?

(a) The primary difference is that sales proceeds or exchange allowances may be used to acquire similar replacement personal property that is still needed under the exchange/sale authority as described in this part; whereas under the more frequently used excess/surplus disposal process, you would not be able to use sales proceeds or exchange allowances to acquire replacement personal property.

(b) Your use of the exchange/sale authority is optional and should be considered when needed replacement assets may be acquired under the provisions of this part. If exchange/sale is not practicable (for example, if conducting an exchange/sale transaction is not cost effective), you should dispose of the property through the excess/surplus disposal process by reporting the property as excess, as addressed in part 102–36 of this chapter.

(c) In the excess/surplus disposal process, any net proceeds from the sale of surplus property generally must be forwarded to the miscellaneous receipts account at the United States Treasury, and thus would not be available to you for use in acquiring similar replacement property or for any other purpose. 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 service life extension program (SLEP), exchange allowances or sales proceeds would be available for replacement of similar items, but not for services).

■ 5. Amend § 102–39.60 by revising paragraph (a) to read as follows:

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

* * * * *

(a) The following FSC Groups of personal property:

(1) 10 Weapons.

(2) 11 Nuclear ordinance.

(3) 44 Furnace, Steam Plant, and Drying Equipment; and Nuclear Reactors (FSC Class 4470, Nuclear Reactors only).

(4) 68 Chemical and chemical products.

(5) 84 Clothing, individual equipment, and insignia.

Note 1 to paragraph (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), or any other FSC Group, for which the applicable DoD demilitarization requirements, and any other applicable regulations and statutes are met.

* * * * *

■ 6. Amend § 102–39.65 by:

■ a. Removing ''and'' from the end of paragraph (d);

■ b. Redesignating paragraph (e) as paragraph (f); and

■ c. Adding new paragraph (e).

The addition reads as follows:

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

* * * * *

(e) Your agency documents at the time of exchange or sale (or at the time of acquiring the replacement property if acquisition precedes the exchange or sale) that the exchange allowance or sale proceeds will be applied to the acquisition of replacement property; and

* * * * *

■ 7. Amend § 102–39.80 by adding a sentence at the end to read as follows:

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

* * * Under no circumstances will deviations be granted for this section.

■ 8. Revise § 102–39.85 to read as follows:

§ 102–39.85 What information am I required to report?

You must submit, within 90 calendar days after the close of each fiscal year (FY), an exchange/sale report using the online Personal Property Reporting Tool template found at *https://www.property.reporting.gov.* This template provides the specific information needed for your agency's report. You can contact the GSA Help Desk at *help.PPRT@gsa.gov* if you need assistance accessing the online reporting tool. All reports, including negative reports, must be submitted electronically through the Personal Property Reporting Tool. Transactions involving books and periodicals in your libraries need not be reported.

■ 9. Add § 102–39.90 to read as follows:

§ 102–39.90 Where do I obtain additional information?

Additional information is provided at the GSA websites *www.gsa.gov/bulletin* and *www.gsa.gov/exchangesale.*

[FR Doc. 2023–08549 Filed 4–26–23; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212 and 228

[Docket DARS–2023–0001]

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule; technical amendment.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) in order to make needed editorial changes.

DATES: Effective April 27, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, Defense