

## SUBCHAPTER A—GENERAL

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#### Subpart 109-1.1—Regulation System

##### § 109-1.100-50 Scope of subpart.

This subpart sets forth the Department of Energy (DOE) Property Management Regulations (DOE-PMR) which establish uniform DOE property management policies, regulations, and procedures that implement and supplement the Federal Property Management Regulations. Property management statutory authorities that are unique to the Department (e.g., section 161g of the Atomic Energy Act of 1954 (42 U.S.C. 2201(g)) and section 3155 of

the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 72741)) are not addressed in these regulations.

**§ 109-1.100-51 Definitions and acronyms.**

(a) *Definitions.* As used in this chapter, the terms *personal property* and *property* are synonymous. In addition, the following definitions apply:

*Administratively controlled items* means personal property controlled at the discretion of individual DOE offices, but for which there is no DOE requirement to maintain formal records.

*Automatic data processing equipment* means, as used in this part and to the extent that such equipment is used to process export controlled information or unclassified controlled nuclear information, any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

*Designated contractors* means those on-site DOE contractors to which the DOE-PMR is made applicable when included as a contractual requirement. The contractors to which these regulations may be made applicable include management and operating (M&O) contractors, environmental restoration and management contractors, and other major prime contractors located at DOE sites.

*Direct operations* means operations conducted by DOE personnel.

*Disposal* means the process of reutilizing, transferring, donating, selling, abandoning, destroying, or other disposition of Government-owned personal property.

*Dual-Use List* means nuclear-related material, equipment, and related technology as described in the International Atomic Energy Agency Information Circular (INFCIRC) 254 Part 2.

*Equipment* means any item of personal property having a unit acquisition cost of \$5,000 or more and having the potential for maintaining its integrity (*i.e.*, not expendable due to use) as an item.

*Especially designed or prepared property* means equipment and material designed or prepared especially for use in the nuclear fuel cycle and described in the Nuclear Suppliers Group Trigger List (INFCIRC 254 Part 1).

*Export controlled information* means unclassified U.S. Government information under DOE cognizance that, if proposed for export by the private sector, would require a U.S. Department of Commerce or U.S. Department of State validated license, or a DOE authorization for export, and which, if given uncontrolled release, could reasonably be expected to adversely affect U.S. national security or nuclear nonproliferation objectives.

*Export controlled property* means property the export of which is subject to licensing by the U.S. Department of Commerce, the U.S. Department of State, the U.S. Nuclear Regulatory Commission, or authorized by the U.S. Department of Energy.

*Hazardous property* means any personal property, including scrap or waste but excluding property involving a radiological hazard, that is ignitable, corrosive, reactive, or toxic because of its quantity, concentration, or physical, chemical, or infectious characteristics, or that is deemed a hazardous material, chemical substance or mixture, or hazardous waste under the Hazardous Material Transportation Act, the Resource Conservation and Recovery Act, or the Toxic Substances Control Act. Such property may be in solid, liquid, semi-liquid, or contained gas form and may cause or significantly contribute to an increase in mortality or illness, or pose present or potential hazard to human health or the environment when improperly used, treated, stored, transported, disposed of, or mismanaged.

*Heads of field organizations* means the heads of any Departmental office located outside the Washington, D.C. metropolitan area. In addition, the Federal Energy Regulatory Commission, and the Office of Headquarters Procurement Operations, shall be considered a field organization for purposes of these regulations.

*High risk personal property* means property that, because of its potential impact on public health and safety, the

environment, national security interests, or proliferation concerns, must be controlled, and disposed of in other than the routine manner. The categories of high risk property are automatic data processing equipment, especially designed or prepared property, export controlled information, export controlled property, hazardous property, nuclear weapon components or weapon-like components, proliferation sensitive property, radioactive property, special nuclear material, and unclassified controlled nuclear information.

*Munitions list* means articles, services, and related technical data designated as defense articles and defense services by the Arms Export Control Act of 1968, as amended.

*Nuclear weapon component or weapon-like component* means parts of whole war reserve nuclear weapon systems, joint test assemblies, trainers, or test devices, including associated testing, maintenance, and handling equipment; or items that simulate such parts.

*Personal property* means property of any kind, except for real estate and interests therein (such as easements and rights-of-way), and permanent fixtures which are Government-owned, chartered, rented, or leased from commercial sources by and in the custody of DOE or its designated contractors; source, byproduct, special nuclear materials, and atomic weapons as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as amended; and petroleum in the Strategic Petroleum Reserve and the Naval Petroleum Reserves.

*Personal property management* means the development, implementation, and administration of policies, standards, programs, practices and procedures for effective and economical acquisition, receipt, storage, issue, use, control, physical protection, care and maintenance, determination of requirements, maintenance of related operating records, and disposal of personal property (exclusive of the property accounting records).

*Proliferation-sensitive property* means nuclear-related or dual-use equipment, material, or technology as described in the Nuclear Suppliers Group Trigger List and Dual-Use List, or equipment,

material or technology used in the research, design, development, testing, or production of nuclear or other weapons.

*Radioactive property* means any item or material that is contaminated with radioactivity and which emits ionizing radiation in excess of background radiation as measured by appropriate instrumentation.

*Sensitive items* means those items of personal property which are considered to be susceptible to being appropriated for personal use or which can be readily converted to cash, for example: Firearms, portable photographic equipment, binoculars, portable tape recorders, portable calculators, portable power tools, portable computers, and portable communications equipment.

*Special nuclear material* means plutonium, uranium 233, uranium enriched in the isotope 233 or 235, any other materials which the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, or any material artificially enriched by any of the foregoing, but does not include source material.

*Trigger List* means nuclear material, equipment, and related technology as described in the INFCIRC 254, Part 1.

*Unclassified controlled nuclear information* means U.S. Government information pertaining to atomic energy defense activities as defined in section 148 of the Atomic Energy Act. Such information can relate to aspects of nuclear weapons design, development, testing, physical security, production, or utilization facilities.

(b) *Acronyms*. As used in this chapter, the following acronyms apply:

ADPE: Automatic Data Processing Equipment  
 CFR: Code of Federal Regulations  
 CSC: Customer Supply Center  
 DEAR: Department of Energy Acquisition Regulation  
 DOD: Department of Defense  
 DOE: Department of Energy  
 DOE-PMR: Department of Energy Property Management Regulations  
 DPMO: Departmental Property Management Officer  
 ECCN: Export Control Classification Number  
 ECI: Export Controlled Information  
 EHFFP: Equipment Held For Future Projects  
 EOQ: Economic Order Quantity

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ERLE: Energy-Related Laboratory Equipment  
FAR: Federal Acquisition Regulation  
FPMR: Federal Property Management Regulations  
FSC: Federal Supply Classification  
FSCG: Federal Supply Classification Group  
GAO: General Accounting Office  
GSA: General Services Administration  
GVWR: Gross Vehicle Weight Rating  
INFCIRC: International Atomic Energy Agency Information Circular  
IFMS: Interagency Fleet Management System  
M&O: Management and Operating  
MCTL: Military Critical Technologies List  
OCRM: Office of Contract and Resource Management  
OPMO: Organizational Property Management Officer  
OPSEC: Operations Security  
PPL: Personal Property Letter  
REAPS: Reportable Excess Automated Property System  
SNM: Special Nuclear Material  
UCNI: Unclassified Controlled Nuclear Information  
U.S.C.: United States Code

### § 109-1.101 Federal Property Management Regulations System.

#### § 109-1.101-50 DOE-PMR System.

The DOE-PMR system described in this subpart is established to provide uniform personal property management policies, standards, and practices within the Department.

### § 109-1.102 Federal Property Management Regulations.

#### § 109-1.102-50 DOE-PMRs.

The DOE-PMRs (41 CFR Ch. 109) implements and supplements the FPMR (41 CFR Ch. 101) issued by the General Services Administration (GSA), Public Laws, Executive Orders, Office of Management and Budget directives, and other agency issuances affecting the Department's personal property management program.

### § 109-1.103 FPMR temporary regulations.

#### § 109-1.103-50 DOE-PMR temporary policies and bulletins

(a) Subject to applicable procedural requirements in 41 U.S.C. 418b, 42 U.S.C. 7191 and 5 U.S.C. 553, Personal Property Letters are authorized for publication of temporary policies that should not

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be codified in the Code of Federal Regulations (CFR).

(b) DOE-PMR Bulletins are used to disseminate information concerning personal property management matters not affecting policy or to clarify instructions in actions required by the FPMR or DOE-PMR.

### § 109-1.104 Publication and distribution of FPMR.

#### § 109-1.104-50 Publication and distribution of DOE-PMR.

The DOE-PMR will be published in the FEDERAL REGISTER and will appear in the CFR as Chapter 109 of Title 41, Public Contracts and Property Management. Loose leaf publications of the DOE-PMR will be distributed to DOE offices.

### § 109-1.106 Applicability of FPMR.

#### § 109-1.106-50 Applicability of FPMR and DOE-PMR.

(a) The FPMR and DOE-PMR apply to all direct operations.

(b) The DOE-PMR does not apply to facilities and activities conducted under Executive Order 12344 and Pub. L. 98-525.

(c) Unless otherwise provided in the appropriate part or subpart, the FPMR and DOE-PMR apply to designated contractors.

(d) The Procurement Executive or head of a contracting activity may designate contractors other than designated contractors to which the FPMR and DOE-PMR apply.

(e) The FPMR and DOE-PMR shall be used by contracting officers in the administration of applicable contracts, and in the review, approval, or appraisal of such contractor operations.

(f) Regulations for the management of Government property in the possession of other DOE contractors are contained in the Federal Acquisition Regulation (FAR), 48 CFR part 45, and in the DOE Acquisition Regulation (DEAR), 48 CFR part 945.

(g) Regulations for the management of personal property held by financial assistance recipients are contained in the DOE Financial Assistance Rules (10 CFR part 600) and DOE Order 534.1, Accounting.

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### § 109–1.107 Agency consultation regarding FPMR.

### § 109–1.107–50 Consultation regarding DOE-PMR.

The DOE-PMR shall be fully coordinated with all Departmental elements substantively concerned with the subject matter.

### § 109–1.108 Agency implementation and supplementation of FPMR.

(a) The DOE-PMR includes basic and significant Departmental personal property management policies and standards which implement, supplement, or deviate from the FPMR. In the absence of any DOE-PMR issuance, the basic FPMR material shall govern.

(b) The DOE-PMR shall be consistent with the FPMR and shall not duplicate or paraphrase the FPMR material.

(c) Implementing procedures, instructions, and guides which are necessary to clarify or to implement the DOE-PMR may be issued by Headquarters or field organizations, provided that the implementing procedures, instructions and guides:

(1) Are consistent with the policies and procedures contained in this regulation;

(2) To the extent practicable, follow the format, arrangement, and numbering system of this regulation; and

(3) Contain no material which duplicates, paraphrases, or is inconsistent with the contents of this regulation.

### § 109–1.110–50 Deviation procedures.

(a) Each request for deviation shall contain the following:

(1) A statement of the deviation desired, including identification of the specific paragraph number(s) of the DOE-PMR;

(2) The reason why the deviation is considered necessary or would be in the best interest of the Government;

(3) If applicable, the name of the contractor and identification of the contractor affected;

(4) A statement as to whether the deviation has been requested previously and, if so, circumstances of the previous request;

(5) A description of the intended effect of the deviation;

(6) A statement of the period of time for which the deviation is needed; and

(7) Any pertinent background information which will contribute to a full understanding of the desired deviation.

(b)(1) Requests for deviations from applicable portions of the FPMR and DOE-PMR (except aviation related portions) shall be forwarded with supporting documentation by the Organizational Property Management Officer (OPMO) to the Departmental Property Management Officer (DPMO).

(2) Requests for deviations from aviation related portions of the FPMR and DOE-PMR concerning aviation operations shall be forwarded by the OPMO or on-site DOE Aviation Management Officer with supporting documentation to the DOE Senior Aviation Management Official.

(c) The Deputy Assistant Secretary for Procurement and Assistance Management is authorized to grant deviations to the DOE-PMR.

(d) Requests for deviations from the FPMR will be coordinated with GSA by the DPMO.

## Subpart 109–1.50—Personal Property Management Program

### § 109–1.5000 Scope of subpart.

This subpart supplements the FPMR, states DOE personal property management policy and program objectives, and prescribes authorities and responsibilities for the conduct of an efficient personal property management program in DOE.

### § 109–1.5001 Policy.

It is DOE policy that a program for the management of personal property shall be established and maintained to meet program needs efficiently and in accordance with applicable Federal statutes and regulations.

### § 109–1.5002 Personal property management program objectives.

The objectives of the DOE personal property management program are to provide:

(a) A system for efficiently managing personal property in the custody or possession of DOE organizations and designated contractors; and

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(b) Uniform principles, policies, and standards for efficient management of personal property that are sufficiently broad in scope and flexible in nature to facilitate adaptation to local needs and various kinds of operations.

### **Subpart 109-1.51—Personal Property Management Standards and Practices**

#### **§ 109-1.5100 Scope of subpart.**

This subpart provides guidance on DOE standards and practices to be applied in the management of personal property. The standards and practices that apply to equipment shall be based on the unit acquisition cost threshold specified in the definition of equipment contained in section §109-1.100-51 of this part. No other acquisition cost threshold shall apply.

#### **§ 109-1.5101 Official use of personal property.**

Personal property shall be used only in the performance of official work of the United States Government, except:

(a) In emergencies threatening loss of life or property as authorized by law;

(b) As otherwise authorized by law and approved by the Director, Office of Administrative Services; heads of field organizations for their respective organizations; or a contracting officer for contractor-held property.

#### **§ 109-1.5102 Maximum use of personal property.**

Personal property management practices shall assure the best possible use of personal property. Supplies and equipment shall be generally limited to those items essential for carrying out the programs of DOE efficiently.

#### **§ 109-1.5103 Loan of personal property.**

(a) Personal property which is not excess and would otherwise be out of service for temporary periods may be loaned to other DOE offices and contractors, other Federal agencies, and to others for official purposes. The loan request shall be in writing, stating the purpose of the loan and period of time required. The loan shall be executed on DOE Form 4420.2, Personal Property Loan Agreement or computer gen-

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erated equivalent when approved in writing by the OPMO or on-site DOE property administrator. When approved, a memorandum transmitting the loan agreement shall be prepared identifying the loan period, delivery time, method of payment and transportation, and point of delivery and return, to ensure proper control and protect DOE's interest. The loan period shall not exceed one year, but may be renewed in one year increments. Second renewals of loan agreements shall be reviewed and justified at a level of management at least two levels above that of the individual making the determination to loan the property. Third renewals shall be approved by the head of the field organization or designee.

(b) Requests for loans to foreign Governments and other foreign organizations shall be submitted to the Deputy Assistant Secretary for International Energy Policy, Trade and Investment for approval, with a copy to the cognizant Headquarters program office.

#### **§ 109-1.5104 Borrowing of personal property.**

(a) DOE organizations and designated contractors are encouraged to borrow personal property within DOE to further DOE programs. Property classified as Equipment Held For Future Projects (EHFFP) or as In Standby should be reviewed by those receiving availability inquiries for short-term use (one year or less). Borrowing of Government personal property from other Federal agencies is also encouraged when required for short periods of time. Such transactions shall be covered by written agreements which include all terms of the transaction.

(b) In determining whether it is practical and economical to borrow personal property, consideration shall be given to suitability, condition, value, extent and nature of use, extent of availability, portability, cost of transportation, and other similar factors.

(c) Adequate records and controls shall be established and maintained for borrowed property to ensure its proper control and prompt return to the lender.

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### § 109-1.5105 Identification marking of personal property.

(a) Personal property shall be marked "U.S. Government property" (if marking space is limited, property may be marked "U.S. DOE") subject to the criteria below. The markings shall be securely affixed to the property, legible, and conspicuous. Examples of appropriate marking media are bar code labels, decals, and stamping.

(1) Equipment and sensitive items shall be marked "U.S. Government property" and numbered for control purposes.

(2) Administratively controlled property and other personal property susceptible to unauthorized personal use should be marked "U.S. Government property" and numbered for control purposes.

(b) Personal property which by its nature cannot be marked, such as stores items, metal stock, etc., is exempted from this requirement.

(c) To the extent practicable and economical, markings shall be removed prior to disposal outside of DOE, or, if removal is impractical, additional permanent markings must be added to indicate such disposal.

### § 109-1.5106 Segregation of personal property.

Ordinarily, contractor-owned personal property shall be segregated from Government personal property. Commingling of Government and contractor-owned personal property may be allowed only when:

(a) The segregation of the property would materially hinder the progress of the work (*i.e.*, segregation is not feasible for reasons such as small quantities, lack of space, or increased costs); and

(b) Control procedures are adequate (*i.e.*, the Government property is specifically marked or otherwise identified as Government property).

### § 109-1.5107 Physical protection of personal property.

Controls such as property pass systems, memorandum records, regular or intermittent gate checks, and/or perimeter fencing shall be established as appropriate to prevent loss, theft, or unauthorized removal of property from

the premises on which such personal property is located.

### § 109-1.5108 Personal property records requirements.

The contractor's property control records shall provide the following basic information for every accountable item of Government personal property in the contractor's possession and any other data elements required by specific contract provisions:

(a) Contract number or equivalent code designation.

(b) Asset type.

(c) Description of item (name, serial number, national stock number (if available)).

(d) Property control number (Government ownership identity).

(e) Unit acquisition cost (including delivery and installation cost, when appropriate, and unit of measure).

(f) Acquisition document reference and date.

(g) Manufacturer's name, model and serial number.

(h) Quantity received, fabricated, issued or on hand.

(i) Location (physical area)

(j) Custodian name and organization code.

(k) Use status (active, storage, excess, etc.)

(l) High risk designation.

(m) Disposition document reference and date.

### § 109-1.5108-1 Equipment.

An individual property record will be developed and maintained for each item of equipment.

### § 109-1.5108-2 Sensitive items.

Individual item records will be maintained for each sensitive item. Minimum dollar value thresholds for controlling sensitive items, if used, will be determined by the OPMO for each DOE organization in consultation with appropriate management officials. This threshold may be applied organization-wide or by individual contractors or location. Identification of types of property meeting the DOE-PMR definition of sensitive property should be the primary determinant of sensitive category, with dollar thresholds, if any,

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considered as a guideline only. Sensitive items which are also equipment will be controlled as both sensitive items and equipment.

**§ 109-1.5108-3 Stores inventories.**

Perpetual inventory records are to be maintained for stores inventory items.

**§ 109-1.5108-4 Precious metals.**

Perpetual inventory records are to be maintained for precious metals.

**§ 109-1.5108-5 Administratively controlled items.**

No formal property management records are required to be maintained for this category of personal property, which includes such items as those controlled for calibration or maintenance purposes, contaminated property, tool crib items, and equipment pool items. Various control records can be employed to help safeguard this property against waste and abuse, including purchase vs. use information, tool crib check-outs, loss and theft reports, calibration records, disposal records, and other similar records. Control techniques would include physical security, custodial responsibility, identification/marketing, or other locally established control techniques.

**§ 109-1.5109 Control of sensitive items.**

(a) A list of types of personal property considered to be sensitive shall be developed and maintained by each DOE activity/site, taking into consideration value, costs of administration, need for control, and other factors that management determines should apply.

(b) Items of equipment which are also designated as sensitive items will be controlled as sensitive items and as equipment.

(c) Written procedures shall be established for control of sensitive items and shall address:

(1) Approval of purchase requisitions or issue documents at an appropriate supervisory level;

(2) Establishment of controls in the central receiving and warehousing department, such as extraordinary physical protection, handling, and maintenance of a current listing of sensitive items;

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(3) Establishment and maintenance of appropriate records;

(4) Requirement for tagging and identification;

(5) Use of memorandum receipts or custody documents at time of assignment or change in custody;

(6) Establishment of custodial responsibilities describing:

(i) Need for extraordinary physical protection;

(ii) Requirement for efficient physical and administrative control of sensitive items assigned for general use within an organizational unit as appropriate to the type of property and the circumstances;

(iii) Requirement for prompt reporting and investigation of loss, damage or destruction; and

(iv) Requirement for promptly reporting changes in custody.

(7) Requirement for periodic physical inventories (see §109-1.5110 of this part).

(8) Requirement for an employee transfer or termination check-out procedure and examination and adjustment of records;

(9) Reminder of prohibition of use for other than official purposes and penalties for misuse;

(10) A clear statement of the extent of responsibility for financial accountability depending upon contractor policy; and

(11) Other procedures which have demonstrated efficient physical and administrative control over sensitive items.

**§ 109-1.5110 Physical inventories of personal property.**

(a) Physical inventories of those categories of personal property as specified in paragraph (f) of this section shall be conducted at all DOE and designated contractor locations.

(b) Physical inventories shall be performed by the use of personnel other than custodians of the property. Where staffing restraints or other considerations apply, the inventory may be performed by the custodian with verification by a second party.

(c) Detailed procedures for the taking of physical inventories shall be developed for each DOE office and designated contractor. The OPMO shall review and approve the DOE office and contractor procedures.

(d) The conduct of a physical inventory will be observed, or follow-on audits made, by independent representatives, e.g., finance, audit, or property personnel, to the extent deemed necessary to assure that approved procedures are being followed and results are accurate. These observations or audits shall be documented and the documentation retained in the inventory record file.

(e) Procedures that are limited to a check-off of a listing of recorded property without actual verification of the location and existence of such property do not meet the requirements of a physical inventory.

(f) The frequency of physical inventories of personal property shall be as follows:

- (1) Equipment—biennial.
- (2) Sensitive items—annual (see paragraph 109-1.5110(1) of this section).
- (3) Stores inventories—annual.
- (4) Precious metals—annual.
- (5) Administratively controlled items—There is no formal Department requirement for the performance of physical inventories of this property. However, OPMOs should determine such requirements based on management needs.

(g) Physical inventories shall be performed at intervals more frequently than required when experience at any given location or with any given item or items indicates that this action is necessary for effective property accounting, utilization, or control.

(h) Physical inventories of equipment may be conducted by the “inventory by exception” method. The system and procedures for taking physical inventories by this method must be fully documented and approved in writing by the OPMO.

(i) The results of physical inventories shall be reconciled with the property records, and with applicable financial control accounts.

(j) The results of physical inventories shall be reported to the OPMO within

30 days after the reconciliation required above.

(k) Physical inventories of equipment and stores inventories may be conducted using statistical sampling methods in lieu of the normal wall-to-wall method. The sampling methods employed must be statistically valid and approved in writing by the OPMO. If use of the statistical methods of physical inventory does not produce acceptable results, the wall-to-wall method shall be used to complete the inventories.

(l) Physical inventories of sensitive items (excluding arms, ammunition, and military property) having an acquisition cost of \$2,000 or less may also be conducted using statistical sampling methods. However if statistical sampling methods are used, a wall-to-wall inventory is required no less frequently than every three years and at contract completion (unless there is a follow-on contract with the same contractor).

#### **§ 109-1.5111 Retirement of property.**

When Government property is worn out, lost, stolen, destroyed, abandoned, or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be supported by an investigation, if necessary, as to the date and circumstances surrounding the wear, loss, theft, destruction, abandonment, or damage. The retirement work order shall be signed by the responsible official initiating the report and reviewed and approved by an official at least one supervisory level above the official initiating the report.

#### **§ 109-1.5112 Loss, damage, or destruction of personal property in possession of DOE direct operations.**

DOE offices shall establish procedures to provide for the reporting, documentation, and investigation of instances of loss, damage, or destruction of personal property including:

- (a) Notification to appropriate DOE organizations and law enforcement offices;
- (b) Determination of cause or origin;
- (c) Liability and responsibility for repair or replacement; and

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(d) Actions taken to prevent further loss, damage, or destruction, and to prevent repetition of similar incidents.

**§ 109-1.5113 Loss, damage, or destruction of personal property in possession of designated contractors.**

(a) Designated contractors shall report any loss, damage, or destruction of personal property in its possession or control, including property in the possession or control of subcontractors, to the property administrator as soon as it becomes known.

(b) When physical inventories, consumption analyses, or other actions disclose consumption of property considered unreasonable by the property administrator; or loss, damage, or destruction of personal property not previously reported by the contractor, the property administrator shall require the contractor to investigate the incidents and submit written reports.

(c) Reports of physical inventory results and identified discrepancies shall be submitted to the property administrator within 90 days of completion of physical inventories. An acceptable percentage of shrinkage for stores inventories shall be determined by the property administrator on a location-by-location basis, based on type and cost of materials, historical data, and other site-specific factors. This determination shall be in writing and be supported by appropriate documentation.

(d) The contractor's report referenced above shall contain factual data as to the circumstances surrounding the loss, damage, destruction or excessive consumption, including:

- (1) The contractor's name and contract number;
- (2) A description of the property;
- (3) Cost of the property, and cost of repairs in instances of damage (in event actual cost is not known, use reasonable estimate);

(4) The date, time (if pertinent), and cause or origin; and

(5) Actions taken by the contractor to prevent further loss, damage, destruction, or unreasonable consumption, and to prevent repetition of similar incidents.

(e) The property administrator shall ensure that the corrective actions taken by the contractor under paragraph (d)(5) of this section satisfactorily address system weaknesses.

(f) The contracting officer shall make a determination of contractor liability with a copy of the determination furnished to the contractor and the property administrator. Costs may be assessed against a contractor for physical inventory discrepancies or other instances of loss of Government property within the terms of the contract. Credit should only be applied if specific items reported as lost can be uniquely identified. General physical inventory write-ons are not to be used as a credit.

(g) If part of a designated contractor's personal property management system is found to be unsatisfactory, the property administrator shall increase surveillance of that part to prevent, to the extent possible, any loss, damage, destruction or unreasonable consumption of personal property. The property administrator shall give special attention to reasonably assuring that any loss, damage, destruction or unreasonable consumption occurring during a period when a contractor's personal property management system is not approved is identified before approval or reinstatement of approval.

**§ 109-1.5114 Use of non-Government-owned property.**

Non-Government-owned personal property shall not be installed in, affixed to, or otherwise made a part of any Government-owned personal property when such action will adversely affect the operation or condition of the Government property.

**§ 109-1.5148 Personal property management reports.**

Reports to be submitted to the DPMO are listed in Table 1:

TABLE 1

Report title	Due at DOE head-quarters	References	Form No.
(1) Report of Exempted Motor Vehicles .....	On request .....	FPMR 101–38.204–4, DOE-PMR 109–38.204–4.	Letter.
(2) Agency Report of Motor Vehicle Data ...	Oct. 31 .....	FPMR 101–38.903, DOE-PMR 109–38.903	SF 82.
(3) Excess Personal Property Furnished to Non-Federal Recipients.	Nov. 15 .....	FPMR 101–43.4701(c), DOE-PMR 109–43.4701(c).	Letter.
(4) Negotiated Sales .....	Nov. 15 .....	FPMR 101–45.4702, DOE-PMR 109–45.4702.	Letter.

**Subpart 109–1.52—Personal Property Management Program for Designated Contractors**

**§ 109–1.5200 Scope of subpart.**

This subpart prescribes policy and responsibilities for the establishment, maintenance, and appraisal of designated contractors’ programs for the management of personal property.

**§ 109–1.5201 Policy.**

(a) Designated contractors shall establish, implement, and maintain a system that provides for an efficient personal property management program. The system shall be consistent with the terms of the contract; prescribed policies, procedures, regulations, statutes, and instructions; and directions from the contracting officer.

(b) Designated contractors’ personal property management systems shall not be considered acceptable until reviewed and approved in writing by the cognizant DOE contracting office in accordance with §109–1.5205 of this subpart.

(c) Designated contractors shall maintain their personal property management systems in writing. Revisions to the systems shall be approved in writing by the cognizant DOE contracting office in accordance with §109–1.5205 of this subpart.

(d) Designated contractors shall include their personal property management system in their management surveillance or internal review program in order to identify weaknesses and functions requiring corrective action.

(e) Designated contractors are responsible and accountable for all Government personal property in the possession of subcontractors, and shall include appropriate provisions in their subcontracts and property manage-

ment systems to assure that subcontractors establish and maintain efficient systems for the management of Government personal property in their possession in accordance with §109–1.5204 of this subpart.

**§ 109–1.5202 Establishment of a personal property holdings baseline.**

(a) If the contractor is a new designated contractor, the contractor may accept the previous contractor’s personal property records as a baseline or may perform a complete physical inventory of all personal property. This physical inventory is to be performed within the time period specified by the contracting officer or the contract, but no later than one year after the execution date of the contract. If the physical inventory is not accomplished within the allotted time frame, the previous contractor’s records will be considered as the baseline.

(b) If any required physical inventories have not been accomplished within the time periods prescribed in §109–1.5110(f) of this part, the new contractor shall either perform such physical inventories within 120 days of contract renegotiation, or accept the existing property records as the baseline.

**§ 109–1.5203 Management of subcontractor-held personal property.**

Designated contractors shall require those subcontractors provided Government-owned personal property to establish and maintain a system for the management of such property. As a minimum, a subcontractor’s personal property management system shall provide for the following:

- (a) Adequate records.
- (b) Controls over acquisitions.
- (c) Identification as Government-owned personal property.

- (d) Physical inventories.
- (e) Proper care, maintenance, and protection.
- (f) Controls over personal property requiring special handling (*i.e.*, nuclear-related, proliferation-sensitive, hazardous, or contaminated property).
- (g) Reporting, redistribution, and disposal of excess and surplus personal property.
- (h) Accounting for personal property that is lost, damaged, destroyed, stolen, abandoned, or worn out.
- (i) Periodic reports, including physical inventory results and total acquisition cost of Government property.
- (j) An internal surveillance program, including periodic reviews, to ensure that personal property is being managed in accordance with established procedures.

**§ 109-1.5204 Review and approval of a designated contractor's personal property management system.**

(a) An initial review of a designated contractor's personal property management system shall be performed by the property administrator within one year after the execution date of the contract, except for contract extensions or renewals or when an existing contractor has been awarded a follow-on contract. The purpose of the review is to determine whether the contractor's system provides adequate protection, maintenance, utilization, and disposition of personal property, and reasonable assurance that the Department's personal property is safeguarded against waste, loss, unauthorized use, or misappropriation, in accordance with applicable statutes, regulations, contract terms and conditions, programmatic needs, and good business practices. If circumstances preclude completion of the initial review within the "within one year" initial review requirement, the property administrator shall request a deviation from the requirement in accordance with the provisions of § 109-1.110-50 of this part.

(b) If a designated contractor is the successor to a previous designated contractor and the contract award was based in part on the contractor's proposal to overhaul the existing personal property management system(s), the

"within one year" initial review requirement may be extended based on:

- (1) The scope of the overhaul; and
  - (2) An analysis of the cost to implement the overhaul within a year versus a proposed extended period.
- (c) When an existing contract has been extended or renewed, or the designated contractor has been awarded a follow-on contract, an initial review of the contractor's personal property management system is not required. In such cases, the established appraisal schedule will continue to be followed as prescribed in paragraph (d) of this section.

(d) At a minimum of every three years after the date of approval of a designated contractor's property management system, the OPMO shall make an appraisal of the personal property management operation of the contractor. The purpose of the appraisal is to determine if the contractor is managing personal property in accordance with its previously approved system and procedures, and to establish whether such procedures are efficient. The appraisal may be based on a formal comprehensive appraisal or a series of formal appraisals of the functional segments of the contractor's operation.

(e) A designated contractor's property management system shall be approved, conditionally approved, or disapproved in writing by the head of the field organization with advice of the contracting officer, property administrator, OPMO, legal counsel, DPMO, and appropriate program officials. Approval authority may be redelegated to the contracting officer or contracting officer's designee. Conditional approval and disapproval authority cannot be redelegated. When a system is conditionally approved or disapproved, the property administrator or contracting officer shall advise the contractor, in writing, of deficiencies that need to be corrected, and a time schedule established for completion of corrective actions.

(f) Appropriate follow-up will be made by the property administrator to ensure that corrective actions have been initiated and completed.

(g) When a determination has been made by the property administrator that all major system deficiencies

identified in the review or appraisal have been corrected, the head of the field organization shall withdraw the conditional approval or disapproval, and approve the system with the concurrence of the OPMO. The approval shall be in writing and addressed to appropriate contractor management.

(h) The property administrator shall maintain a copy of all designated contractor personal property management system appraisals and approvals in such manner as to be readily available to investigative and external review teams.

**§ 109–1.5205 Personal property management system changes.**

Any proposed significant change to a designated contractor's approved personal property management system shall be reviewed by the property administrator at the earliest possible time. Such changes should then be approved in writing on an interim basis, or disapproved in writing, by the property administrator as appropriate.

**Subpart 109–1.53—Management of High Risk Personal Property**

**§ 109–1.5300 Scope of subpart.**

(a) This subpart provides identification, accounting, control, and disposal policy guidance for the following categories of high risk personal property: especially designed or prepared property, export controlled property, nuclear weapon components or weapon-like components, and proliferation sensitive property. The guidance is intended to ensure that the disposition of these categories of high risk personal property does not adversely affect the national security or nuclear nonproliferation objectives of the United States.

(b) The other categories of high risk personal property are controlled by other life cycle management programs and procedures monitored by other Departmental elements.

**§ 109–1.5301 Applicability.**

This subpart is applicable to all DOE organizations which purchase, manage or dispose of Government personal property, or contract for the management of Government facilities, pro-

grams, or related services, which may directly or indirectly require the purchase, management, or disposal of Government-owned personal property. Using the high risk personal property control requirements in this subpart as guidance, heads of field organizations or OPMOs shall assure that designated contractors and financial assistance recipients are responsible for developing a cost effective high risk property management system, covering all operational responsibilities enumerated in this subpart.

**§ 109–1.5302 Policies.**

(a) It is the responsibility of DOE organizations and designated contractors to manage and control Government-owned high risk personal property in an efficient manner. High risk personal property will be managed throughout its life cycle so as to protect public and DOE personnel safety and to advance the national security and the nuclear nonproliferation objectives of the U.S. Government.

(b) The disposition of high risk property is subject to special considerations. Items of high risk property may present significant risks to the national security and nuclear nonproliferation objectives of the Government which must be evaluated. Organizations will identify high risk property and control its disposition to eliminate or mitigate such risks. In no case shall property be transferred or disposed unless it receives a high risk assessment and is handled accordingly.

**§ 109–1.5303 Procedures.**

(a) *Identification, marking and control.* To ensure the appropriate treatment of property at its disposal and to prevent inadvertent, uncontrolled release of high risk property, property should be assessed and evaluated as high risk property as early in its life cycle as practical.

(1) Newly acquired high risk personal property shall be identified and tracked during the acquisition process and marked upon receipt.

(2) All personal property shall be reviewed for high risk identification, marking, and database entry during regularly scheduled physical inventories, unless access to the property is

difficult or impractical because the property is a component of a larger assembly, a complex operating system, or an older facility. The review of this property will be completed, prior to disposition, when replacing components or when operating systems and facilities are decommissioned and dismantling.

(3) High risk personal property which by its nature cannot be marked, such as stores items and metal stock, is exempt from this requirement. However, personal property management programs should contain documentation on the characterization of this property as high risk.

(b) *Disposition of high risk property.* (1) Prior to disposition, all personal property, materials or data will be assessed to determine:

(i) Whether it should be characterized as high risk and

(ii) What actions are necessary to ensure compliance with applicable national security or nonproliferation controls.

(2) The DOE or designated contractor property management organization may not process high risk personal property into a reutilization/disposal program without performing the reviews prescribed by the local high risk property management system. The reviews must be properly documented, and all appropriate certifications and clearances received, in accordance with the approved site or facility personal property management program.

(3) The disposition (including demilitarization of items on the Munitions List) and handling of high risk personal property are subject to applicable provisions of Subchapter H of the FPMR, subchapter H of this chapter, and the DOE Guidelines on Export Control and Nonproliferation.

(4) *Documentation.* All applicable documentation, including records concerning the property's categorization as high risk, shall be included as part of the property transfer. The documentation shall be included with all transfers within, or external to, DOE.

(5) Unless an alternative disposition option appears to be in the best interest of the Government, surplus Trigger List components, equipment, and materials and nuclear weapon components

shall either be sold for scrap after being rendered useless for their originally intended purpose or destroyed, with the destruction verified and documented. Requests for approval of an alternative disposition may be made through the cognizant Assistant Secretary to the Director of the Office of Nonproliferation and National Security.

(6) *Export Restriction Notice.* The following Export Restriction Notice, or approved equivalent notice, shall be included in all transfers, sales, or other offerings:

#### EXPORT RESTRICTION NOTICE

The use, disposition, export and reexport of this property are subject to all applicable U.S. laws and regulations, including the Atomic Energy Act of 1954, as amended; the Arms Export Control Act (22 U.S.C. 2751 *et seq.*); the Export Administration Act of 1979 (560 U.S.C. Append 2401 *et seq.*); Assistance to Foreign Atomic Energy Activities (10 CFR part 810); Export and Import of Nuclear Equipment and Material (10 CFR part 110); International Traffic in Arms Regulations (22 CFR parts 120 *et seq.*); Export Administration Regulations (15 CFR part 730 *et seq.*); Foreign Assets Control Regulations (31 CFR parts 500 *et seq.*); and the Espionage Act (37 U.S.C. 791 *et seq.*) which among other things, prohibit:

a. The making of false statements and concealment of any material information regarding the use or disposition, export or reexport of the property; and

b. Any use or disposition, export or reexport of the property which is not authorized in accordance with the provisions of this agreement.

#### § 109-1.5304 Deviations.

(a) Life cycle control determinations. When the HFO approves a contractor program containing controls, other than life cycle control consistent with this subpart, the decision shall be justified in writing and a copy sent to the Deputy Assistant Secretary for Procurement and Assistance Management. A HFO's decision not to provide life-cycle control should take into account:

(1) The nature and extent of high risk property typically purchased or otherwise brought to a DOE or designated contractor facility or site;

(2) The projected stability of DOE and designated contractor operations; and

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(3) The degree of confidence in the property control measures available at disposition.

(b) Certain transfers, sales, or other offerings of high risk personal property may require special conditions or specific restrictions as determined necessary by the property custodian or cognizant program office.

(c) Requests for deviations from the requirements of this subpart may be made through the cognizant HFO to the Deputy Assistant Secretary for Procurement and Assistance Management.

### PART 109-6—MISCELLANEOUS REGULATIONS

#### Subpart 109-6.4—Official Use of Government Passenger Carriers Between Residence and Place of Employment

Sec.

109-6.400 Scope and applicability.

109-6.400-50 Instructions to DOE passenger carrier operators.

109-6.402 Policy.

109-6.450 Statutory provisions.

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); 31 U.S.C. 1344(e)(1).

SOURCE: 63 FR 19624, Apr. 20, 1998, unless otherwise noted.

#### Subpart 109-6.4—Official Use of Government Passenger Carriers Between Residence and Place of Employment

##### § 109-6.400 Scope and applicability.

(a) With the exception of § 109-6.400-50, the provisions of this subpart and 41 CFR part 102-5 do not apply to designated contractors. Official use provisions applicable to these contractors are contained in § 109-38.3 of this chapter.

(b) When an employee on temporary duty is authorized to travel by Government motor vehicle, and in the interest of the Government, is scheduled to depart before the beginning of regular working hours, or if there will be a significant savings in time, a Government motor vehicle may be issued at the close of the preceding working day. Similarly, when scheduled to return after the close of working hours, the motor vehicle may be returned the

next regular working day. This use of a Government motor vehicle is not regarded as prohibited by 31 U.S.C. 1344 (25 Comp. Gen. 844).

[63 FR 19624, Apr. 20, 1998, as amended at 68 FR 7941, Feb. 19, 2003]

##### § 109-6.400-50 Instructions to DOE passenger carrier operators.

DOE offices shall ensure that DOE employees operating Government motor vehicles are informed concerning:

(a) The statutory requirement that Government motor vehicles shall be used only for official purposes;

(b) Personal responsibility for safe driving and operation of Government motor vehicles, and for compliance with Federal, state, and local laws and regulations, and all accident reporting requirements;

(c) The need to possess a valid state, District of Columbia, or commonwealth operator's license or permit for the type of vehicle to be operated and some form of agency identification;

(d) The penalties for unauthorized use of Government motor vehicles;

(e) The prohibition against providing transportation to strangers or hitchhikers;

(f) The proper care, control and use of Government credit cards;

(g) Mandatory use of seat belts by each employee operating or riding in a Government motor vehicle;

(h) The prohibition against the use of tobacco products in GSA-Interagency Fleet Management System (IFMS) motor vehicles;

(i) Any other duties and responsibilities assigned to operators with regard to the use, care, operation, and maintenance of Government motor vehicles;

(j) The potential income tax liability when they use a Government motor vehicle for transportation between residence and place of employment; and

(k) Protection for DOE employees under the Federal Tort Claims Act when acting within the scope of their employment.

##### § 109-6.402 Policy.

(a) It is DOE policy that Government motor vehicles operated by DOE employees are to be used only for official Government purposes or for incidental