

## Department of Energy

## § 109-46.000-50

(b) While there is authority for exchange or lease of foreign surplus personal property, such authority shall be exercised only when such action is clearly in the best interests of the U.S. Government. Disposals by exchange are subject to the same requirements as disposals by sale under § 109-45.5105-2(a) of this subpart.

(c)(1) Foreign excess or surplus personal property (including salvage and scrap) may be donated, abandoned, or destroyed provided:

(i) The property has no commercial value or the estimated cost of its care and handling would exceed the estimated proceeds from its sale; and

(ii) A written finding to that effect is made and approved by the Deputy Assistant Secretary for International Energy Policy, Trade and Investment.

(2) No personal property shall be abandoned or destroyed if donation is feasible. Donations under these conditions may be made to any agency of the U.S. Government, or to educational, public health, or charitable nonprofit organizations.

(3) Foreign excess personal property may also be abandoned or destroyed when such action is required by military necessity, safety, or considerations of health or security. A written statement explaining the basis for disposal by these means and approval by the Deputy Assistant Secretary for International Energy Policy, Trade and Investment is required.

(4) Property shall not be abandoned or destroyed in a manner which is detrimental or dangerous to public health and safety, or which will cause infringement on the rights of other persons.

### § 109-45.5105 Reports.

(a) Proposed sales of foreign surplus personal property having an acquisition cost of \$250,000 or more shall be reported to the DPMO and should include all pertinent data, including the following:

(1) The description of personal property to be sold, including:

(i) Identification of personal property (description should be in terms understandable to persons not expert in technical nomenclature). Personal property covered by the U.S. Munitions

List and regulations pertaining thereto (as published in 22 CFR 121.01) should be clearly identified;

(ii) Quantity;

(iii) Condition; and

(iv) Acquisition cost.

(2) The proposed method of sale (e.g., sealed bid, negotiated sale, etc.)

(3) Any currency to be received and payment provisions (i.e., U.S. dollars, foreign currency, or credit, including terms of the proposed sale).

(4) Any restrictions on use of personal property to be sold (such as resale of property, disposal as scrap, demilitarization, etc.).

(5) Any special terms or conditions of sale.

(6) The categories of prospective purchasers (e.g., host country, other foreign countries, special qualifications, etc.).

(7) How taxes, excises, duties, etc., will be handled.

(b) Instructions for reporting foreign excess utilization and disposal transactions are contained in Chapter III of DOE Order 534.1, Accounting.

## PART 109-46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Sec.

109-46.000 Scope of part.

109-46.000-50 Applicability.

### Subpart 109-46.2—Authorization

109-46.202 Restrictions and limitations.

109-46.203 Special authorizations.

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

SOURCE: 63 FR 19646, Apr. 20, 1998, unless otherwise noted.

### § 109-46.000 Scope of part.

### § 109-46.000-50 Applicability.

(a) Except as set forth in paragraphs (a)(1)–(a)(5), the requirements of FPMR Part 101-46 and this part are not applicable to designated contractors. Designated contractors shall comply with the following FPMR requirements:

(1) 101-46.200

(2) 101-46.201-1

## § 109-46.202

(3) 101-46.202(b)(2), (3), (4), (5), (6), and (7)

(4) 101-46.202(c)(1), (2), (4), (5), (6), (7), (10), (11), and (12)

(5) 101-46.202(d)

(b) Items in the following Federal Supply Classification Groups (FSCG) are not eligible for processing under the exchange/sale provision. Requests for waivers must be processed through the DPMO to GSA.

### DESCRIPTION

#### FSCG

- 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)
- 20 Ship and marine equipment
- 22 Railway equipment
- 41 Firefighting, rescue, and safety equipment

## Subpart 109-46.2—Authorization

### § 109-46.202 Restrictions and limitations.

(a)–(c)(9) [Reserved]

(10) The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall designate an official to make the certification that a continuing valid requirement exists for excess personal property acquired and placed in official use for less than one year but no longer required and is to be disposed of under the exchange/sale provisions.

(11) [Reserved]

(12) Heads of field organizations shall make the determination concerning demilitarization of combat material.

### § 109-46.203 Special authorizations.

(a) [Reserved]

(b) The Director, Office of Administrative Services and heads of field organizations for their respective organizations shall designate an official to make the certification concerning the exchange of historic items for historical preservation or display.

## 41 CFR Ch. 109 (7-1-13 Edition)

## PART 109-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Sec.

109-48.000 Scope of part.

109-48.000-50 Applicability.

### Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

109-48.101 Forfeited or voluntarily abandoned property.

109-48.101-6 Transfer to other Federal agencies.

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

SOURCE: 63 FR 19647, Apr. 20, 1998, unless otherwise noted.

### § 109-48.000 Scope of part.

### § 109-48.000-50 Applicability.

This part is applicable to contractor operations where the abandoned or forfeited personal property is found on premises owned or leased by the Government that are managed and operated by designated contractors.

### Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

#### § 109-48.101 Forfeited or voluntarily abandoned property.

#### § 109-48.101-6 Transfer to other Federal agencies.

(a)–(e) [Reserved]

(d) Transfer orders for forfeited or voluntarily abandoned distilled spirits, wine, and malt beverages for medicinal, scientific, or mechanical purposes or any other official purposes for which appropriated funds may be expended by a Government agency shall be forwarded through normal administrative channels for signature by the DPMO and for subsequent forwarding to GSA for release.

(f) Transfer orders for reportable forfeited drug paraphernalia shall be forwarded through normal administrative channels for signature by the DPMO and for subsequent forwarding to GSA for approval.