

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–40 and 102–117

[FPMR Amendment G–116]

RIN 3090–AH16

Transportation Management

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage on transportation and traffic management into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Effective October 6, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Allison, Program Analyst, Transportation Management Policy, Office of Governmentwide Policy, General Services Administration, at 202–219–1729, or Internet e-mail at elizabeth.allison@gsa.gov

SUPPLEMENTARY INFORMATION:

A. Background

In response to President Clinton's mandate to Federal agencies to make communication with the public more understandable, General Services Administration (GSA) is revising and clarifying the transportation management policies by writing them in plain language and making other substantial changes. This rule adds a new part to the Federal Management Regulation (FMR) that will phase in the use of commercial transportation documents, such as bills of lading, and retire the corresponding Government transportation documents whenever possible.

The FMR is in the question and answer format. Question and answer format is an effective way to engage the reader and to break the information into manageable pieces. The FMR asks questions in the first person, as the user would. It then answers the questions in the second and third person. The FMR addresses the agency in the singular.

B. Substantive Changes

This final rule clarifies existing transportation management requirements. We incorporate the Treasury, Postal and General

Government Appropriations Act of 1994 (see Public Law 103–123; 107 Stat. 1226, 1247) that changed GSA to a nonmandatory source of transportation services. The focus shifts the transportation regulations away from how agencies should use GSA's household goods and freight shipment programs as mandatory sources of these services. Changes are included to:

(a) Provide broad policy for agencies to develop transportation programs that best suit their needs;

(b) Require that all contracts and rate tenders include the terms and conditions formerly annotated on the Government bills of lading. All transportation documents must reference the applicable contract or rate tender;

(c) Include general business rules a transportation manager will consider before buying transportation services. These rules give a broad range of guidelines to ensure compliance with other Governmental directives and compliance with all Federal, State and local laws;

(d) Eliminate the use of the Optional Forms 1103 and 1203, Government Bill of Lading, for domestic freight and household goods shipments by September 30, 2001;

(e) Expand the choices for acquiring transportation and transportation related services and incorporate the terms and conditions previously noted on the paper GBL in all contracts and agreements;

(f) Expand the use of charge cards as an alternative payment method for transportation services. Agencies must set up their own administrative rules covering accountability, exceptions and limits of the charge card;

(g) Introduce performance measures to help agencies determine how well they perform the transportation function and support the agency mission;

(h) Introduce a section on transportation service provider's performance defining what transportation managers should expect in the contractual agreement and what recourse is available for nonperformance;

(i) Add a requirement for reports. Reporting transportation costs will help agencies collect information for forecasting and planning; and

(j) Add a separate section on representation before regulatory bodies to clarify the authority granted to GSA and how an agency may request help.

A proposed rule was published on February 28, 2000, at 65 FR 8817. Comments were received from six agencies and one member of the public. All comments were considered in the

formulation of the final rule and, as a result, a number of changes were made to the proposed rule.

C. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only applies to internal agency management and will not have a significant effect on the public.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 501–517.

F. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–40 and 102–117

Freight, Government property management, Moving of household goods, Reporting and recordkeeping requirements, Transportation.

For the reasons set forth in the preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–40 is revised to read as follows:

PART 101–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

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

§101–40.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on transportation and traffic management previously contained in this part, see FMR part 117 (41 CFR part 102–117).

CHAPTER 102—[AMENDED]

2. Part 102–117 is added to subchapter D of chapter 102 to read as follows:

PART 102-117—TRANSPORTATION MANAGEMENT**Subpart A—General**

Sec.

- 102-117.5 What is transportation management?
- 102-117.10 What is the scope of this part?
- 102-117.15 To whom does this part apply?
- 102-117.20 Are any agencies exempt from this part?
- 102-117.25 What definitions apply to this part?

Subpart B—Acquiring Transportation or Related Services

- 102-117.30 What choices do I have when acquiring transportation or related services?
- 102-117.35 What are the advantages and disadvantages to using GSA's tender of service?
- 102-117.40 When is it advantageous for me to use another agency's contract or rate tender for transportation services?
- 102-117.45 What other factors must I consider when using another agency's contract or rate tender?
- 102-117.50 What are the advantages and disadvantages of contracting directly with a TSP under FAR?
- 102-117.55 What are the advantages and disadvantages of using a rate tender?
- 102-117.60 What is the importance of the terms and conditions in a rate tender or other transportation document?
- 102-117.65 What terms and conditions must all rate tenders or contracts include?
- 102-117.70 Where do I find more information on terms and conditions?
- 102-117.75 How do I reference the rate tender on transportation documents?
- 102-117.80 How are rate tenders filed?
- 102-117.85 What is the difference between a Government bill of lading (GBL) and a bill of lading?
- 102-117.90 May I use U.S. Government bill of lading (GBL) (Optional Forms 1103 and 1203), to acquire freight, household goods or other related transportation services?
- 102-117.95 After the GBLs retire for domestic shipments, what transportation documents must I use to acquire freight, household goods or other transportation services?

Subpart C—Business Rules To Consider Before Shipping Freight or Household Goods

- 102-117.100 What business rules must I consider before acquiring transportation or related services?
- 102-117.105 What does best value mean when routing a shipment?
- 102-117.110 What is satisfactory service?
- 102-117.115 How do I calculate total delivery costs?
- 102-117.120 To what extent must I equally distribute orders for transportation and related services among TSPs?
- 102-117.125 How detailed must I describe property for shipment when communicating to a TSP?

- 102-117.130 Must I select TSPs who use alternative fuels?

Subpart D—Restrictions That Affect International Transportation of Freight and Household Goods

- 102-117.135 What are the international transportation restrictions?
- 102-117.140 What is cargo preference?
- 102-117.145 What are coastwise laws?
- 102-117.150 What do I need to know about coastwise laws?
- 102-117.155 Where do I go for further information about coastwise laws?

Subpart E—Shipping Freight

- 102-117.160 What is freight?
- 102-117.165 What shipping process must I use for freight?
- 102-117.170 What reference materials are available to ship freight?
- 102-117.175 What factors do I consider to determine the mode of transportation?
- 102-117.180 What transportation documents must I use to ship freight?
- 102-117.185 Where must I send a copy of the transportation documents?
- 102-117.190 Where do I file a claim for loss or damage to property?
- 102-117.195 Are there time limits affecting filing of a claim?

Subpart F—Shipping Hazardous Material (HAZMAT)

- 102-117.200 What is HAZMAT?
- 102-117.205 What are the restrictions for transporting HAZMAT?
- 102-117.210 Where can I get guidance on transporting HAZMAT?

Subpart G—Shipping Household Goods

- 102-117.215 What are household goods (HHG)?
- 102-117.220 What choices do I have to ship HHG?
- 102-117.225 What is the difference between a contract or rate tender and a commuted rate system?
- 102-117.230 Must I compare costs between a contract or rate tender and the commuted rate system before choosing which method to use?
- 102-117.235 How do I get a cost comparison?
- 102-117.240 What is my agency's financial responsibility to an employee who chooses to move all or part of his/her HHG under the commuted rate system?
- 102-117.245 What is my responsibility in providing guidance to an employee who wishes to use the commuted rate system?
- 102-117.250 What are my responsibilities after shipping the household goods?
- 102-117.255 What actions may I take if the TSP's performance is not satisfactory?
- 102-117.260 What are my responsibilities to employees regarding the TSP's liability for loss or damage claims?
- 102-117.265 Are there time limits that affect filing a claim with a TSP for loss or damage?

Subpart H—Performance Measures

- 102-117.270 What are agency performance measures for transportation?

Subpart I—Transportation Service Provider (TSP) Performance

- 102-117.275 What performance must I expect from a TSP?
- 102-117.280 What aspects of the TSP's performance are important to measure?
- 102-117.285 What are my choices if a TSP's performance is not satisfactory?
- 102-117.290 What is the difference between temporary nonuse, suspension and debarment?
- 102-117.295 Who makes the decisions on temporary nonuse, suspension and debarment?
- 102-117.300 Do the decisions on temporary nonuse, suspension and debarment go beyond the agency?
- 102-117.305 Where do I go for information on the process for suspending or debarring a TSP?
- 102-117.310 What records must I keep on temporary nonuse, suspension or debarment of a TSP?
- 102-117.315 Who must I notify on suspension or debarment of a TSP?

Subpart J—Representation Before Regulatory Body Proceedings

- 102-117.320 What is a transportation regulatory body proceeding?
- 102-117.325 May my agency appear on its own behalf before a transportation regulatory body proceeding?
- 102-117.330 When, or under what circumstances, would GSA delegate authority to an agency to appear on its own behalf before a transportation regulatory body proceeding?
- 102-117.335 How does my agency ask for a delegation to represent itself in a regulatory body proceeding?
- 102-117.340 What other types of assistance may GSA provide agencies in dealing with regulatory bodies?

Subpart K—Reports

- 102-117.345 Is there a requirement for me to report to GSA on my transportation activities?
- 102-117.350 How will GSA use reports I submit?

Subpart L—Governmentwide Transportation Policy Council (GTPC)

- 102-117.355 What is the Governmentwide Transportation Policy Council (GTPC)?
- 102-117.360 Where can I get more information about the GTPC?

Authority: 31 U.S.C. 3726; 40 U.S.C. 481, *et seq.*

Subpart A—General**§ 102-117.5 What is transportation management?**

Transportation management is agency oversight of the physical movement of commodities, household goods (HHG) and other freight from one location to another by a transportation service provider (TSP).

§ 102-117.10 What is the scope of this part?

This part addresses shipping freight and household goods worldwide.

Freight is property or goods transported as cargo. Household goods are not Government property, but are employees' personal property entrusted to the Government for shipment.

§ 102–117.15 To whom does this part apply?

This part applies to all agencies and wholly owned Government corporations as defined in 5 U.S.C. 101 *et seq.* and 31 U.S.C. 9101(3), except those indicated in § 102–117.20.

§ 102–117.20 Are any agencies exempt from this part?

(a) The Department of Defense is exempted from this part by an agreement under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481 *et seq.*), except for the rules to debar or suspend a TSP under the Federal Acquisition Regulation (48 CFR part 9, subpart 9.4).

(b) Subpart D of this part, covering household goods, does not apply to the uniformed service members, under Title 37 of the United States Code, "Pay and Allowances of the Uniformed Services," including the uniformed service members serving in civilian agencies such as the U.S. Coast Guard, National Oceanic and Atmospheric Administration and the Public Health Service.

§ 102–117.25 What definitions apply to this part?

The following definitions apply to this part:

Accessorial charges are charges for services other than line-haul charges. Examples of accessorial charges are:

- (1) Inside delivery, redelivery, reconsignment, and demurrage or detention for freight; and
- (2) Packing, unpacking, appliance servicing, blocking and bracing, and special handling for household goods.

Agency is any executive agency, but does not include:

- (1) A Government Controlled Corporation;
 - (2) The Tennessee Valley Authority;
 - (3) The Virgin Islands Corporation;
 - (4) The Atomic Energy Commission;
 - (5) The Central Intelligence Agency;
 - (6) The Panama Canal Commission;
- and
- (7) The National Security Agency, Department of Defense.

Bill of lading, sometimes referred to as a commercial bill of lading (but includes GBLs), is the document used as a receipt of goods and documentary evidence of title.

Cargo preference is the legal requirement for all, or a portion of all,

ocean-borne cargo to be transported on U.S. flag vessels.

Commuted rate system is the system under which an agency may allow its employees to make their own household goods shipping arrangements, and apply for reimbursement.

Consignee is the person or agent to whom freight or household goods are delivered.

Consignor is the person or firm that ships freight or household goods to a consignee.

Contract of carriage is a contract between the TSP and the agency to transport freight or household goods.

Debarment is an action to exclude a TSP, for a period of time, from providing services under a rate tender or any contract under the Federal Acquisition Regulation (48 CFR part 9, subpart 9.406).

Demurrage is the penalty charge to an agency for delaying the agreed time to load or unload shipments by rail or ocean TSPs.

Detention is the penalty charge to an agency for delaying the agreed time to load or unload shipments by truck TSPs.

Electronic commerce is an electronic technique for carrying out business transactions (ordering and paying for goods and services), including electronic mail or messaging, Internet technology, electronic bulletin boards, charge cards, electronic funds transfers, and electronic data interchange.

Foreign flag vessel is any vessel of foreign registry including vessels owned by U.S. citizens but registered in a foreign country.

Freight is property or goods transported as cargo.

Government bill of lading (GBL) is the Optional Form 1103 or 1203, the transportation document used as a receipt of goods, evidence of title, and a contract of carriage.

Governmentwide Transportation Policy Council (GTPC) is an interagency forum to help GSA formulate policy. It provides agencies managing transportation programs a forum to exchange information and ideas to solve common problems. For further information on this council, see web site: <http://www.policyworks.gov/transportation>.

Hazardous material is a substance or material the Secretary of Transportation determines to be an unreasonable risk to health, safety, and property when transported in commerce, and labels as hazardous under section 5103 of the Federal Hazardous Materials Transportation Law (49 U.S.C. 5103 *et seq.*). When transported internationally hazardous material may be classified as

"Dangerous Goods." All such freight must be marked in accordance with applicable regulations and the carrier must be notified in advance.

Household goods (HHG) are the personal effects of Government employees and their dependents.

Line-Haul is the movement of freight between cities excluding pickup and delivery service.

Mode is a method of transportation, such as rail, motor, air, water, or pipeline.

Rate schedule is a list of freight rates, taxes, and charges assessed against non-household goods cargo.

Rate tender is an offer a TSP sends to an agency, containing service rates and charges.

Receipt is a written or electronic acknowledgment by the consignee or TSP as to when and where a shipment was received.

Release/declared value is stated in dollars and is considered the assigned value of the cargo for reimbursement purposes, not necessarily the actual value of the cargo. Released value may be more or less than the actual value of the cargo. The released value is the maximum amount that could be recovered by the agency in the event of loss or damage for the shipments of freight and household goods. The statement of released value must be shown on any applicable tariff, tender, or other document covering the shipment.

Reparation is a payment to or from an agency to correct an improper transportation billing involving a TSP. Improper routing, overcharges or duplicate payments may cause such improper billing. This is different from a payment to settle a claim for loss and damage.

Suspension is an action taken by an agency to disqualify a TSP from receiving orders for certain services under a contract or rate tender (48 CFR part 9, subpart 9.407).

Transportation document is any executed agreement for transportation service, such as bill of lading, Government bill of lading (GBL), Government travel request (GTR) or transportation ticket.

Transportation service provider (TSP) is any party, person, agent or carrier that provides freight or passenger transportation and related services to an agency. For a freight shipment this would include packers, truckers and storers. For passenger transportation this would include airlines, travel agents and travel management centers.

U.S. flag air carrier is an air carrier holding a certificate issued by the United States under 49 U.S.C. 41102 (49

U.S.C. 40118, 48 CFR part 47, subpart 47.4).

U.S. flag vessel is a commercial vessel, registered and operated under the laws of the U.S., owned and operated by U.S. citizens, and used in commercial trade of the United States.

Subpart B—Acquiring Transportation or Related Services

§ 102–117.30 What choices do I have when acquiring transportation or related services?

When you acquire transportation or related services you may:

- (a) Use the GSA tender of service;
- (b) Use another agency's contract or rate tender with a TSP only if allowed by the terms of that agreement or if the Administrator of General Services delegates authority to another agency to enter an agreement available to other Executive agencies;
- (c) Contract directly with a TSP using the acquisition procedures under the Federal Acquisition Regulation (FAR) (48 CFR chapter 1); or
- (d) Negotiate a rate tender under a Federal transportation procurement statute, 49 U.S.C. 10721 or 13712.

§ 102–117.35 What are the advantages and disadvantages of using GSA's tender of service?

- (a) It is an advantage to use GSA's tender of service when you want to:
 - (1) Use GSA's authority to negotiate on behalf of the Federal Government and take advantage of the lower rates and optimum service that result from a larger volume of business;
 - (2) Use a uniform tender of service; and
 - (3) Obtain assistance with loss and damage claims.
- (b) It is a disadvantage to use GSA's tender of service when:
 - (1) You want an agreement that is binding for a longer term than the GSA tender of service;
 - (2) You have sufficient time to follow FAR contracting procedures; and
 - (3) You do not want to pay for the GSA administrative service charge as a participant in the GSA rate tender programs.

§ 102–117.40 When is it advantageous for me to use another agency's contract or rate tender for transportation services?

It is advantageous to use another agency's contract or rate tender for transportation services when the contract or rate tender offers better or equal value than otherwise available to you.

§ 102–117.45 What other factors must I consider when using another agency's contract or rate tender?

When using another agency's contract or rate tender, you must:

- (a) Assure that the contract or rate tender meets any special requirements unique to your agency;
- (b) Pay any other charges imposed by the other agency for external use of their contract or rate tender; and
- (c) Ensure the terms of the other agency's contract or rate tender allow you to use it.

§ 102–117.50 What are the advantages and disadvantages of contracting directly with a TSP under the FAR?

- (a) The FAR is an advantage to use when:
 - (1) You ship consistent volumes in consistent traffic lanes;
 - (2) You have sufficient time to follow FAR contracting procedures; and
 - (3) Your contract office is able to handle the requirement.
- (b) The FAR may be a disadvantage when you:
 - (1) Cannot prepare and execute a FAR contract within your time frame; or
 - (2) Have recurring shipments between designated places, but do not expect sufficient volume to obtain favorable rates.

§ 102–117.55 What are the advantages and disadvantages of using a rate tender?

- (a) Using a rate tender is an advantage when you:
 - (1) Have a shipment that must be made within too short a time frame to identify or solicit for a suitable contract; or
 - (2) Have shipments recurring between designated places, but do not expect sufficient volume to obtain favorable rates.
- (b) Using a rate tender may be a disadvantage when:
 - (1) You have sufficient time to use the FAR and this would achieve better results;
 - (2) You require transportation service for which no rate tender currently exists; or
 - (3) A TSP may revoke or terminate the tender on short notice.

§ 102–117.60 What is the importance of terms and conditions in a rate tender or other transportation document?

Terms and conditions are important to protect the Government's interest and establish the performance and standards expected of the TSP. It is important to remember that terms and conditions are:

- (a) Negotiated between the agency and the TSP before movement of any item; and
- (b) Included in all contracts and rate tenders listing the services the TSP is

offering to perform at the cost presented in the rate tender or other transportation document.

Note to § 102–117.60: You must reference the negotiated contract or rate tender on all transportation documents. For further information see § 102–117.65.

§ 102–117.65 What terms and conditions must all rate tenders or contracts include?

All rate tenders and contracts must include, at a minimum, the following terms and conditions:

- (a) Charges cannot be prepaid.
- (b) Charges are not paid at time of delivery.
- (c) Interest shall accrue from the voucher payment date on overcharges made and shall be paid at the same rate in effect on that date as published by the Secretary of the Treasury according to the Debt Collection Act of 1982, 31 U.S.C. 3717.
- (d) To qualify for the rates specified in a rate tender filed under the provisions of the Federal transportation procurement statutes (49 U.S.C. 10721 or 13712), property must be shipped by or for the Government and the rate tender must indicate the Government is either the consignor or the consignee and include the following statement:

Transportation is for the (agency name) and the total charges paid to the transportation service provider by the consignor or consignee are for the benefit of the Government.

- (e) When using a rate tender for transportation under a cost-reimbursable contract, include the following statement in the rate tender:

Transportation is for the (agency name), and the actual total transportation charges paid to the transportation service provider by the consignor or consignee are to be reimbursed by the Government pursuant to cost reimbursable contract (number). This may be confirmed by contacting the agency representative at (name, address and telephone number).

- (f) Other terms and conditions that may be specific to your agency or the TSP such as specialized packaging requirements or HAZMAT. For further information see the "U.S. Government Freight Transportation Handbook," available by contacting:

General Services Administration
Federal Supply Service
Audit Division (FBA)
1800 F Street, NW.
Washington, DC 20405
<http://www.fss.gsa.gov/transtrav>

§ 102–117.70 Where do I find more information on terms and conditions?

You may find more information about terms and conditions in part 102–118 of this chapter, or the "U.S. Government

Freight Transportation Handbook" (see § 102-117.65(f)).

§ 102-117.75 How do I reference the rate tender on transportation documents?

To ensure proper reference of a rate tender on all shipments, you must show the applicable rate tender number and carrier identification on all transportation documents, such as, section 13712 quotation, "ABC Transportation Company, Tender Number * * *".

§ 102-117.80 How are rate tenders filed?

(a) The TSP must file a written rate tender with your agency.

(b) You must send two copies of the rate tender to:

General Services Administration
Federal Supply Service, Audit Division
(FBA)
1800 F Street, NW.
Washington, DC 20405
<http://www.fss.gsa.gov/transtrav>

§ 102-117.85 What is the difference between a Government bill of lading (GBL) and a bill of lading?

(a) A Government bill of lading (GBL), Optional Forms 1103 and 1203, is a controlled document that conveys specific terms and conditions to protect the Government interest and serves as the contract of carriage.

(b) A bill of lading, sometimes referred to as a commercial bill of lading, is the document used as a receipt of goods and documentary evidence of title.

(c) Use a bill of lading for Government shipments if the specific terms and conditions of a GBL are included in any contract or rate tender (see § 102-117.65) and the bill of lading makes reference to that contract or rate tender (see § 102-117.75 and the "U.S. Government Freight Transportation Handbook").

§ 102-117.90 May I use U.S. Government bill of lading (GBL) (Optional Forms 1103 and 1203), to acquire freight, household goods or other related transportation services?

You may use the GBL, Optional Forms 1103 or 1203, to acquire transportation services offered under a contract or rate tender until September 30, 2001. The GBL will completely phase out for domestic shipments on September 30, 2001, and be replaced by commercial bills of lading. After September 30, 2001, you may use the GBL only for international shipments (including domestic offshore shipments).

§ 102-117.95 After the GBLs retire for domestic shipments, what transportation documents must I use to acquire freight, household goods or other transportation services?

Bills of lading and purchase orders are the transportation documents you use to acquire freight, household goods and other transportation services after the GBLs retire for domestic shipments. Terms and conditions in § 102-117.65 and the "U.S. Government Freight Transportation Handbook" will still be required. For further information on payment methods, see part 102-118 of this chapter.

Subpart C—Business Rules To Consider Before Shipping Freight or Household Goods

§ 102-117.100 What business rules must I consider before acquiring transportation or related services?

When acquiring transportation or related services you must:

(a) Use the mode or individual transportation service provider (TSP) that provides the overall best value to the agency. For more information, see §§ 102-117.105 through 102-117.130;

(b) Demonstrate no preferential treatment to any TSP when arranging for transportation services except on international shipments. Preference on international shipments must be given to United States registered commercial vessels and aircraft;

(c) Ensure that small businesses receive equal opportunity to compete for all business they can perform to the maximum extent possible, consistent with the agency's interest (see 48 CFR part 19);

(d) Encourage minority-owned businesses and women-owned businesses, to compete for all business they can perform to the maximum extent possible, consistent with the agency's interest (see 48 CFR part 19);

(e) Review the need for insurance. Generally, the Government is self-insured; however, there are instances when the Government will purchase insurance coverage for Government property. An example may be cargo insurance for international air cargo shipments to cover losses over those allowed under the International Air Transport Association (IATA) or for ocean freight shipments; and

(f) Consider the added requirements on international transportation found in subpart D of this part.

§ 102-117.105 What does best value mean when routing a shipment?

Best value to your agency when routing a shipment means using the mode or individual TSP providing the

best combination of satisfactory service factors.

§ 102-117.110 What is satisfactory service?

You should consider the following factors in assessing whether a TSP offers satisfactory service:

(a) Availability and suitability of the TSP's equipment;

(b) Adequacy of shipping and receiving facilities at origin and destination;

(c) Adequacy of pickup and/or delivery service;

(d) Availability of accessorial and special services;

(e) Estimated time in transit;

(f) Record of past performance of the TSP including accuracy of billing;

(g) Capability of warehouse equipment and storage space; and

(h) Experience of company, management, and personnel to perform the requirements.

§ 102-117.115 How do I calculate total delivery costs?

You calculate total delivery costs for a shipment by considering all costs related to the shipping or receiving process, such as packing, blocking, bracing, drayage, loading and unloading, and transporting.

§ 102-117.120 To what extent must I equally distribute orders for transportation and related services among TSPs?

You must assure that small businesses, socially or economically disadvantaged and women-owned TSPs have equal opportunity to provide the transportation or related services.

§ 102-117.125 How detailed must I describe property for shipment when communicating to a TSP?

You must describe property in enough detail for the TSP to determine the type of equipment or any special precautions necessary to move the shipment. Details might include weight, volume, measurements, routing, hazardous cargo, or special handling designations.

§ 102-117.130 Must I select TSPs who use alternative fuels?

No, but, whenever possible, you are encouraged to select TSPs that use alternative fuel vehicles and equipment, under policy in the Clean Air Act Amendments of 1990 (42 U.S.C. 7612) or the Energy Policy Act of 1992 (42 U.S.C. 13212).

Subpart D—Restrictions That Affect International Transportation of Freight and Household Goods

§ 102–117.135 What are the international transportation restrictions?

Several statutes mandate the use of U.S. flag carriers for international shipments (see 48 CFR part 47, subparts 47.4 and 47.5). For example:

(a) Arrangements for international air transportation services must follow the Fly America Act (International Air Transportation Fair Competitive Practices Act of 1974) (49 U.S.C. 40118); and

(b) International movement of property by water is subject to the cargo preference laws (see 46 CFR part 381 and 48 CFR part 47, subpart 47.5), which require the use of a U.S. flag carrier when service is available. The Maritime Administration (MARAD) monitors agency compliance of these laws. All Government shippers must send a rated copy of the ocean carrier's bill of lading to MARAD within 30 days of loading aboard a vessel to:

Department of Transportation
Maritime Commission
Office of Cargo Preference
400 7th Street, SW.
Washington, DC 20590
<http://www.marad.dot.gov/>
Tel. 1–800–9US-FLAG
E-mail: cargo@marad.dot.gov

Note to § 102–117.135(b): Non-vessel Operations Common Carrier (NVOCC) or freight forwarder bills of lading are not acceptable (see 48 CFR part 47).

§ 102–117.140 What is cargo preference?

Cargo preference is the statutory requirement that all, or a portion of all, ocean-borne cargo that moves internationally be transported on U.S. flag vessels. Deviations or waivers from the cargo preference laws must be approved by:

Department of Transportation
Maritime Administration
Office of Cargo Preference
400 7th Street, SW.
Washington, DC 20590
<http://www.marad.dot.gov/>
Tel. 1–800–9US-FLAG
e-mail: cargo@marad.dot.gov

§ 102–117.145 What are coastwise laws?

Coastwise laws refer to laws governing shipment of freight, household goods and passengers by water between points in the United States or its territories. The purpose of these laws is to assure reliable shipping service and the existence of a maritime capability in times of war or national emergency (see section 27 of the Merchant Marine Act of 1920, 46 App. U.S.C. 883, 19 CFR 4.80).

§ 102–117.150 What do I need to know about coastwise laws?

You need to know that:

(a) Goods transported entirely or partly by water between U.S. points, either directly or via a foreign port, must travel in U.S. Maritime Administration (MARAD) authorized U.S. Flag vessels;

(b) There are exceptions and limits for the U.S. Island territories and possessions in the Atlantic and Pacific Oceans (see § 102–117.155); and

(c) The Secretary of the Treasury is empowered to impose monetary penalties against agencies that violate the coastwise laws.

§ 102–117.155 Where do I go for further information about coastwise laws?

You may refer to 46 App. U.S.C. 883, 19 CFR 4.80, DOT MARAD, the U.S. Coast Guard or U.S. Customs Service for further information on exceptions to the coastwise laws.

Subpart E—Shipping Freight

§ 102–117.160 What is freight?

Freight is property or goods transported as cargo.

§ 102–117.165 What shipping process must I use for freight?

Use the following shipping process for freight:

(a) For domestic shipments you must:

- (1) Identify what you are shipping;
- (2) Decide if the cargo is HAZMAT, classified, or sensitive that may require special handling or placards;
- (3) Decide mode;

(4) Check for applicable contracts or rate tenders within your agency or other agencies, including GSA;

(5) Select the most efficient and economical TSP that gives the best value;

(6) Prepare shipping documents; and

(7) Schedule pickup, declare released value and ensure prompt delivery with a fully executed receipt, and oversee shipment.

(b) For international shipments you must follow all the domestic procedures and, in addition, comply with the cargo preference laws. For specific information, see subpart D of this part.

§ 102–117.170 What reference materials are available to ship freight?

(a) The following is a partial list of handbooks and guides available from GSA:

(1) U.S. Government Freight Transportation Handbook;

(2) Limited Authority to Use Commercial Forms and Procedures;

(3) Submission of Transportation Documents; and

(4) Things to be Aware of When Routing or Receiving Freight Shipments.

(b) For the list in paragraph (a) of the section and other reference materials, contact:

(1) General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW., Washington, DC 20405, <http://www.fss.gsa.gov/transtrav>; or

(2) General Services Administration, Federal Supply Service, 1500 Bannister Road, Kansas City, MO 64131, <http://www.kc.gsa.gov/fsstt>.

§ 102–117.175 What factors do I consider to determine the mode of transportation?

Your shipping urgency and any special handling requirements determine which mode of transportation you select. Each mode has unique requirements for documentation, liability, size, weight and delivery time. HAZMAT, radioactive, and other specialized cargo may require special permits and may limit your choices.

§ 102–117.180 What transportation documents must I use to ship freight?

To ship freight:

(a) By land (domestic shipments), use a bill of lading;

(b) By land (international shipments), use the GBL;

(c) By ocean, use an ocean bill of lading, when suitable, along with the GBL; and

(d) By air, use a bill of lading.

§ 102–117.185 Where must I send a copy of the transportation documents?

(a) You must forward an original copy of all transportation documents to:

General Services Administration
Federal Supply Service
Audit Division (FBA)
1800 F Street, NW.
Washington, DC 20405

(b) For all property shipments subject to the cargo preference laws (see § 102–117.140), a copy of the ocean carrier's bill of lading, showing all freight charges, must be sent to MARAD within 30 days of vessel loading.

§ 102–117.190 Where do I file a claim for loss or damage to property?

You must file a claim for loss or damage to property with the TSP.

§ 102–117.195 Are there time limits affecting filing of a claim?

Yes, several statutes limit the time for administrative or judicial action against a TSP. Refer to part 102–118 of this chapter for more information and the time limit tables.

Subpart F—Shipping Hazardous Material (HAZMAT)

§ 102–117.200 What is HAZMAT?

HAZMAT is a substance or material the Secretary of Transportation determines to be an unreasonable risk to health, safety and property when transported in commerce. Therefore, there are restrictions on transporting HAZMAT (49 U.S.C. 5103 *et seq.*).

§ 102–117.205 What are the restrictions for transporting HAZMAT?

Agencies that ship HAZMAT are subject to the Environmental Protection Agency and the Department of Transportation regulations, as well as applicable State and local government rules and regulations.

§ 102–117.210 Where can I get guidance on transporting HAZMAT?

The Secretary of Transportation prescribes regulations for the safe transportation of HAZMAT in intrastate, interstate, and foreign commerce in 49 CFR parts 171 through 180. The Environmental Protection Agency also prescribes regulations on transporting HAZMAT in 40 CFR parts 260 through 266. You may also call the HAZMAT information hotline at 1–800–467–4922 (Washington, DC area, call 202–366–4488).

Subpart G—Shipping Household Goods

§ 102–117.215 What are household goods (HHG)?

Household goods (HHG) are the personal effects of Government employees and their dependents.

§ 102–117.220 What choices do I have to ship HHG?

- (a) You may choose to ship HHG by:
 - (1) Using the commuted rate system;
 - (2) GSA's Centralized Household Goods Traffic Management Program (CHAMP);
 - (3) Contracting directly with a TSP, (including a relocation company that offers transportation services) using the acquisition procedures under the Federal Acquisition Regulation (FAR) (see § 102–117.35);
 - (4) Using another agency's contract with a TSP (see § 102–117.40 and 102–117.45);
 - (5) Using a rate tender under the Federal transportation procurement statutes (49 U.S.C. 10721 or 13712) (see § 102–117.35).

(b) As an alternative to the choices in paragraph (a) of this section, you may request the Department of State to assist with shipments of HHG moving to, from, and between foreign countries or

international shipments originating in the continental United States. The nearest U.S. Embassy or Consulate may assist with arrangements of movements originating abroad. For further information contact:

Department of State
Transportation Operations
2201 C Street, NW.
Washington, DC 20520

Note to § –117.220: Agencies must use the commuted rate system for civilian employees who transfer between points inside the continental United States unless it is evident from the cost comparison that the Government will incur a savings (\$100 or more) using another choice listed. The use of household goods rate tenders is not authorized when household goods are shipped under the commuted rate system.

§ 102–117.225 What is the difference between a contract or a rate tender and a commuted rate system?

(a) Under a contract or a rate tender, the agency prepares the bill of lading and books the shipment. The agency is the shipper and pays the TSP the applicable charges. If loss or damage occurs, the agency may either file a claim on behalf of the employee directly with the TSP, or help the employee in filing a claim against the TSP.

(b) Under the commuted rate system an employee arranges for shipping HHG and is reimbursed by the agency for the resulting costs. Use this method only within the continental United States (not Hawaii or Alaska). The agency reimburses the employee according to the Commuted Rate Schedule published by the GSA. The Commuted Rate Schedule (without rate table) is available on the Internet at <http://www.policyworks.gov>.

(c) For rate table information or a subscription for the Commercial Relocation Tariff contact:

American Moving and Storage Association
1611 Duke Street
Alexandria, VA 22314–3482
Tel. 703–683–7410

(d) For further information or assistance, you may contact:

General Services Administration
National Customer Service Center
1500 Bannister Road
Kansas City, MO 64131
<http://www.kc.gsa.gov/fsstt>

§ 102–117.230 Must I compare costs between a contract or a rate tender and the commuted rate system before choosing which method to use?

Yes, you must compare the cost between a contract or a rate tender, and the commuted rate system before you make a decision.

§ 102–117.235 How do I get a cost comparison?

(a) You may calculate a cost comparison internally according to 41 CFR 302–8.3.

(b) You may request GSA to perform the cost comparison if you participate in the CHAMP program by sending GSA the following information as far in advance as possible (preferably 30 calendar days):

- (1) Name of employee;
- (2) Origin city, county and State;
- (3) Destination city, county, and State;
- (4) Date of household goods pick up;
- (5) Estimated weight of shipments;
- (6) Number of days storage-in-transit (if applicable); and
- (7) Other relevant data.

(c) For more information on cost comparisons contact:

General Services Administration
Federal Supply Service
1500 Bannister Road
Kansas City, MO 64131
<http://www.kc.gsa.gov/fsstt>

Note to § 102–117.235(c): GSA may charge an administrative fee for agencies not participating in the CHAMP program.

§ 102–117.240 What is my agency's financial responsibility to an employee who chooses to move all or part of his/her HHG under the commuted rate system?

(a) Your agency is responsible for reimbursing the employee what it would cost the Government to ship the employee's HHG by the most cost-effective means available or the employee's actual moving expenses, whichever is less.

(b) The employee is liable for the additional cost when the cost of transportation arranged by the employee is more than what it would cost the Government.

Note to § 102–117.240: For more information on how to ship household goods, refer to 41 CFR 302–8.3.

§ 102–117.245 What is my responsibility in providing guidance to an employee who wishes to use the commuted rate system?

You must counsel employees that they may be liable for all costs above the amount reimbursed by the agency if they select a TSP that charges more than provided under the Commuted Rate Schedule.

§ 102–117.250 What are my responsibilities after shipping the household goods?

(a) Each agency should develop an evaluation survey for the employee to complete following the move.

(b) Under the CHAMP program, you must counsel employees to fill out their portion of the GSA Form 3080,

Household Goods Carrier Evaluation Report. This form reports the quality of the TSP's performance. After completing the appropriate sections of this form, the employee must send it to the bill of lading issuing officer who in turn will complete the form and forward it to:

General Services Administration
National Customer Service Center
1500 Bannister Rd.
Kansas City, MO 64131
<http://www.kc.gsa.gov.fss/fsstt>

§ 102-117.255 What actions may I take if the TSP's performance is not satisfactory?

If the TSP's performance is not satisfactory, you may place a TSP in temporary nonuse, suspended status, or debarred status. For more information on doing this, see subpart I of this part and the FAR (48 CFR 9.406-3 and 9.407-3).

§ 102-117.260 What are my responsibilities to employees regarding the TSP's liability for loss or damage claims?

Regarding the TSP's liability for loss or damage claims, you must:

(a) Advise employees on the limits of the TSP's liability for loss of and damage to their HHG so the employee may evaluate the need for added insurance;

(b) Inform the employee about the procedures to file claims for loss and damage to HHG with the TSP; and

(c) Counsel employees, who have a loss or damage to their HHG that exceeds the amount recovered from a TSP, on procedures for filing a claim against the Government for the difference. Agencies may compensate employees up to \$40,000 on claims for loss and damage under 31 U.S.C. 3721, 3723 (41 CFR 302-8.2(f)).

§ 102-117.265 Are there time limits that affect filing a claim with a TSP for loss or damage?

Yes, several statutes limit the time for filing claims or taking other administrative or judicial action against a TSP. Refer to part 102-118 of this chapter for information on claims.

Subpart H—Performance Measures

§ 102-117.270 What are agency performance measures for transportation?

(a) Agency performance measures are indicators of how you are supporting your customers and doing your job. By tracking performance measures you can report specific accomplishments and your success in supporting the agency mission. The Government Performance and Results Act (GPRA) of 1993 (31 U.S.C. 1115) requires agencies to

develop business plans and set up program performance measures.

(b) Examples of performance measurements in transportation would include how well you:

(1) Increase the use of electronic commerce;

(2) Adopt industry best practices and services to meet your agency requirements;

(3) Use TSPs with a track record of successful past performance or proven superior ability;

(4) Take advantage of competition in moving agency freight and household goods;

(5) Assure that delivery of freight and household goods is on time against measured criteria; and

(6) Create simplified procedures to be responsive and adaptive to the customer needs and concerns.

Subpart I—Transportation Service Provider (TSP) Performance

§ 102-117.275 What performance must I expect from a TSP?

You must expect the TSP to provide consistent and satisfactory service to meet your agency transportation needs.

§ 102-117.280 What aspects of the TSP's performance are important to measure?

Important TSP performance measures may include, but are not limited to the:

(a) TSP's percentage of on-time deliveries;

(b) Percentage of shipments that include overcharges or undercharges;

(c) Percentage of claims received in a given period;

(d) Percentage of returns received on-time;

(e) Percentage of shipments rejected;

(f) Percentage of billing improprieties;

(g) Average response time on tracing shipments;

(h) TSP's safety record (accidents, losses, damages or misdirected shipments) as a percentage of all shipments;

(i) TSP's driving record (accidents, traffic tickets and driving complaints) as a percentage of shipments; and

(j) Percentage of customer satisfaction reports on carrier performance.

§ 102-117.285 What are my choices if a TSP's performance is not satisfactory?

You may choose to place a TSP in temporary nonuse, suspension, or debarment if performance is unsatisfactory.

§ 102-117.290 What is the difference between temporary nonuse, suspension and debarment?

(a) Temporary nonuse is limited to your agency and initiated by the agency

transportation officers for a period not to exceed 90 days for:

(1) Willful violations of the terms of the rate tender;

(2) Persistent or willful failure to meet requested packing and pickup service;

(3) Failure to meet required delivery dates;

(4) Violation of Department of Transportation (DOT) hazardous material regulations;

(5) Mishandling of freight, damaged or missing transportation seals, improper loading, blocking, packing or bracing of property;

(6) Improper routing of property;

(7) Subjecting your shipments to unlawful seizure or detention by failing to pay debts;

(8) Operating without legal authority;

(9) Failure to settle claims according to Government regulations; or

(10) Repeated failure to comply with regulations of DOT, Surface Transportation Board, State or local governments or other Government agencies.

(b) Suspension is disqualifying a TSP from receiving orders for certain services under a contract or rate tender pending an investigation or legal proceeding. A TSP may be suspended on adequate evidence of:

(1) Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract for transportation;

(2) Violation of Federal or State antitrust statutes;

(3) Embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(4) Any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the TSP as a transporter of the Government's property or the HHG of its employees relocated for the Government.

(c) Debarment means action taken to exclude a contractor from contracting with all Federal agencies. The seriousness of the TSP's acts or omissions and the mitigating factors must be considered in making any debarment decisions. A TSP may be debarred for the following reasons:

(1) Failure of a TSP to take the necessary corrective actions within the period of temporary nonuse; or

(2) Conviction of or civil judgment for any of the causes for suspension.

§ 102-117.295 Who makes the decisions on temporary nonuse, suspension and debarment?

(a) The transportation officer may place a TSP in temporary nonuse for a period not to exceed 90 days.

(b) The serious nature of suspension and debarment requires that these sanctions be imposed only in the public interest for the Government's protection and not for purposes of punishment. Only the agency head or his/her designee may suspend or debar a TSP.

§ 102-117.300 Do the decisions on temporary nonuse, suspension and debarment go beyond the agency?

(a) Temporary nonuse does not go beyond the agency.

(b) GSA compiles and maintains a current list of all suspended or debarred TSPs and periodically distributes the list to all agencies and the General Accounting Office.

§ 102-117.305 Where do I go for information on the process for suspending or debarring a TSP?

Refer to the Federal Acquisition Regulation (48 CFR part 9, subpart 9.4) for policies and procedures governing suspension and debarment of a TSP.

§ 102-117.310 What records must I keep on temporary nonuse, suspension or debarment of a TSP?

(a) You must set up a program consistent with your agency's internal record retention procedures to document the placement of TSPs in a nonuse, suspended or debarred status.

(b) For temporary nonuse, your records must contain the following information:

- (1) Name, address, and Standard Carrier Alpha Code and Taxpayer Identification Number of each TSP placed in temporary nonuse status;
- (2) The duration of the temporary nonuse status;
- (3) The cause for imposing temporary nonuse, and the facts showing the existence of such a cause;
- (4) Information and arguments in opposition to the temporary nonuse period sent by the TSP or its representative; and
- (5) The reviewing official's determination about keeping or removing temporary nonuse status.

(c) For suspended or debarred TSPs, your records must include the same information as paragraph (b) of this section and you must:

- (1) Assure your agency does not award contracts to a suspended or debarred TSP; and
- (2) Notify GSA (see § 102-117.315).

§ 102-117.315 Who must I notify on suspension or debarment of a TSP?

Agencies must report monthly any suspension or debarment actions to:

General Services Administration
Office of Acquisition Policy (MV)
1800 F Street, NW.

Washington, DC 20405
<http://www.epls.arnet.gov>;

Subpart J—Representation Before Regulatory Body Proceedings

§ 102-117.320 What is a transportation regulatory body proceeding?

A transportation regulatory body proceeding is a hearing before a transportation governing entity, such as a State public utility commission, the Surface Transportation Board, or the Federal Maritime Commission. The proceeding may be at the Federal or State level depending on the activity regulated.

§ 102-117.325 May my agency appear on its own behalf before a transportation regulatory body proceeding?

Generally, no executive agency may appear on its own behalf in any proceeding before a transportation regulatory body, unless the Administrator of General Services delegates the authority to the agency. The statutory authority for the Administrator of General Services to participate in regulatory proceedings on behalf of all Federal agencies is in section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)(4)).

§ 102-117.330 When, or under what circumstances, would GSA delegate authority to an agency to appear on its own behalf before a transportation regulatory body proceeding?

GSA will delegate authority when it does not have the expertise, or when it is outside of GSA's purview, to make a determination on an issue such as a protest of rates, routings or excessive charges.

§ 102-117.335 How does my agency ask for a delegation to represent itself in a regulatory body proceeding?

You must send your request for delegation with enough detail to explain the circumstances surrounding the need for delegation of authority for representation to:

General Services Administration
Office of Transportation and Personal Property (MT)
1800 F Street, NW.
Washington, DC 20405

§ 102-117.340 What other types of assistance may GSA provide agencies in dealing with regulatory bodies?

(a) GSA has oversight of all public utilities used by the Federal Government including transportation. There are specific regulatory requirements a TSP must meet at the State level, such as the requirement to

obtain a certificate of public convenience and necessity.

(b) GSA has a list of TSPs, which meet certain criteria regarding insurance and safety, approved by DOT. You must furnish GSA with an affidavit to determine if the TSP meets the basic qualification to protect the Government's interest. As an oversight mandate, GSA coordinates this function. For further information contact:

General Services Administration
Federal Supply Service
Office of Transportation and Property Management
Travel and Transportation Management Division (FBL)
Crystal Mall Bldg. #4, Room 814
Washington, DC 20406

Subpart K—Reports

§ 102-117.345 Is there a requirement for me to report to GSA on my transportation activities?

(a) Currently, there is no requirement for reporting to GSA on your transportation activities. However, GSA will work with your agency and other agencies to develop reporting requirements and procedures. In particular, GSA will develop a Governmentwide transportation reporting system by October 1, 2002.

(b) Preliminary reporting requirements may include an electronic formatted report on the quantity shipped, locations (from and to) and cost of transportation. The following categories are examples:

- (1) Dollar amount spent for transportation;
- (2) Volume of weight shipped;
- (3) Commodities shipped;
- (4) HAZMAT shipped;
- (5) Mode used for shipment;
- (6) Location of items shipped (international or domestic); and
- (7) Domestic subdivided by East and West (Interstate 85).

§ 102-117.350 How will GSA use reports I submit?

(a) Reporting on transportation and transportation related services will provide GSA with:

(1) The ability to assess the magnitude and key characteristics of transportation within the Government (e.g., how much agencies spend; what type of commodity is shipped; etc.);

(2) Data to analyze and recommend changes to policies, standards, practices, and procedures to improve Government transportation; and

(3) A better understanding of how your activity relates to other agencies and your influence on the Governmentwide picture of transportation services.

(b) In addition, this information will assist you in showing your management the magnitude of your agency's transportation program and the effectiveness of your efforts to control cost and improve service.

Subpart L—Governmentwide Transportation Policy Council (GTPC)

§ 102–117.355 What is the Governmentwide Transportation Policy Council (GTPC)?

The Office of Governmentwide Policy sponsors a Governmentwide Transportation Policy Council (GTPC) to

help agencies establish, improve, and maintain effective transportation management policies, practices and procedures. The council:

(a) Collaborates with private and public stakeholders to develop valid performance measures and promote solutions that lead to effective results; and

(b) Provides assistance in developing the Governmentwide transportation reporting system (see § 102–117.345).

§ 102–117.360 Where can I get more information about the GTPC?

For more information about the GTPC, contact:

General Services Administration
Office of Transportation and Personal Property (MT)
1800 F Street, NW.
Washington, DC 20405
<http://www.policyworks.gov/transportation>

Dated: September 26, 2000.

David J. Barram,

Administrator of General Services.

[FR Doc. 00–25130 Filed 10–5–00; 8:45 am]

BILLING CODE 6820–24–P