

PBS P4000.1 Excess and Surplus Real Property
GENERAL SERVICES ADMINISTRATION
Washington, DC 20405
PBS P 4000.1
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GSA ORDER

SUBJECT: Excess and Surplus Real Property

The Public Buildings Service (PBS) and the Federal Property Resources Service (FPRS) recently merged. Because of the merge, this handbook identification is changed from PRM P 4000.1B to PBS P 4000.1. All references to FPRS will mean PBS. The contents of this order will remain the same. Subsequent changes will be made as needed

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CHAPTER 5. ENVIRONMENTAL, HISTORIC AND COASTAL ZONE MANAGEMENT CONSIDERATIONS

1. General. This chapter covers Federal environmental requirements related to the real property disposal program. In some instances, specific State and/or local environmental requirements, which are not covered in this chapter, may be applicable. Due to the evolving nature of the environmental field, laws, regulations and guidance are changing rapidly. To ensure site specific

environmental compliance issues are being addressed appropriately, realty specialists should contact State and/or local regulators, as well as review the procedures in this handbook. If requirements are unclear, you should contact a Central Office Environmental Specialist.

2. Environmental laws and regulations. There are two major environmental laws that affect the GSA real property disposal program and apply to all GSA disposal actions. These are as follows:

a. National Environmental Policy Act of 1969, as amended (NEPA); 16 U.S.C. 470 et seq. GSA Order Environmental Considerations in Decisionmaking (ADM 1095.1D) is the implementing guidance that categorizes GSA activities into "classes of actions." This document instructs GSA officials on actions requiring preparation of an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). It also provides for "categorical exclusions" that do not require an EIS or an EA. Case files must document consideration of environmental factors and compliance with ADM 1095.1D in all disposal actions. Federal agencies reporting property excess must also comply with NEPA. Each agency has its own internal guidance for NEPA implementation. If available, this information may be helpful to regional personnel in fulfilling GSA's NEPA compliance requirements for disposal.

b. Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 2601, et seq. Section 120(h)(3) of CERCLA, created by the Superfund Amendments and Reauthorization Act (SARA), requires full disclosure of all known hazardous substance activity and specifies covenants be provided in deeds for disposal of Federal property. Sections 101-47.202-2(b)(10) and 101-47.304-14 of the FPMR, and EPA regulations at 40 CFR part 373, provide details regarding ROE and disposal requirements. The Community Environmental Response Facilitation Act (CERFA), enacted on October 18, 1992, amended CERCLA by adding paragraph (4) to section 120(h) of CERCLA. This new paragraph requires Federal agencies to identify uncontaminated parcels of land prior to terminating Federal Government operations and to include specific covenants in deeds used to transfer property. The law also details a process for agencies to follow in order to accomplish this identification. It may be necessary for realty specialists to request additional information along with the SF 118 to comply with CERFA. Specific questions regarding this law should be directed to an environmental specialist in the central office.

c. In addition to the above mentioned environmental statutes, the following table includes a listing of pertinent environmental laws which may affect

disposal activities. Statutes are listed by acronyms in the table. A full listing by name and citation follows the table. The table includes reference to implementing guidance and/or regulations and has a brief description of effect on the real property disposal program:

Environmental Laws and Regulations Affecting Real Property Disposal Actions

Environmental Law/Statute Purpose/Effect Implementing Regulation &/or
Guidance Document

Coastal Zone Management Act of 1972

(16 U.S.C. 1451, et seq.) Addresses disposal actions affecting the coastal zone & requires consideration of State coastal zone management plans 15 CFR part 930

Community Environmental Response Facilitation Act

(42 U.S.C. 9601, et seq.) Requires identification of uncontaminated property No implementing regulation

Comprehensive Environmental Response, Compensation, and Liability Act
Addresses reporting and disclosure requirements for hazardous substances

FPMR: 101-47.202-2(b)(10)

40 CFR part 373

Endangered Species Act of 1973 (16 U.S.C. 15301, et seq.) Requires agency consultation with DOI to ensure actions do not jeopardize endangered or threatened species 50 CFR part 402

Farmlands Protection Act of 1981 (7 U.S.C. 4201, et seq.) Establishes criteria for identifying and considering the effects of Federal actions on the conversion of farmland to non-agricultural uses. 7 CFR 658

see also 7 CFR 657 (Prime Farmlands)

Federal Facility Compliance Act (42 U.S.C. 6901, et seq.) Requires compliance with State and Local Environmental laws at Federal facilities
No implementing regulation

Flood Disaster Protection Act of 1973 (43 U.S.C. 4001, et seq.) Prohibits Federal actions in areas subject to flood hazards E.O. 11988 & 11990

FPMR: 101-47.202-2(b)(6)

National Environmental Policy Act of 1969, as amended (NEPA); (16 U.S.C. 470, et seq.) Requires agencies to consider environmental impacts in decision making GSA Order ADM 1095.1D,

40 CFR part 1500

National Historic Preservation Act of 196 (16 U.S.C. 470, et seq.)

Requires identification of historically significant properties 36 CFR

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ADM 1020.1

Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, et seq.)

Regulates hazardous and solid waste activities and USTs 40 CFR part
260-281

Safe Drinking Water Act (42 U.S.C. 300, et seq.) Sets standards for
drinking water quality and regulates activities affecting drinking water
supplies 40 CFR part 141-143, 146, 149

Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601, et
seq.) Addresses reporting and disclosure requirements for hazardous
substances FPMR: 101-47.202-2(b)(10)

40 CFR part 373

Toxic Substances Control Act, as amended (15 U.S.C. 2601, et seq.)

Regulates specific chemical substances, including PCBs and Asbestos 40 CFR
part 761

Wild and Scenic Rivers Act

(16 U.S.C. 1271, et seq.) Requires agencies to review their actions for
potential effects on wild and scenic rivers CEQ Memorandum, Federal
Register 9/8/90

President's 1979 environmental message: directive on wild and scenic
rivers

3. Reports of excess (ROE). Section 101-47.202 of the FPMR details the
requirements for reports of excess. Several environmental requirements are
addressed in this section; however, each ROE must also include information
pertaining to the following:

a. Asbestos-containing materials (ACM). Refer to FPMR at 101-47.202-2(b)(9) and
be sure to include the following:

(1) A description of the type, location and condition of ACM and a description
of any asbestos control measures taken.

(2) Any available indication of costs and/or time necessary to remove all or any
portion of the ACM.

b. Coastal zone. Be sure to include the following:

(1) A statement as to whether and what portion of the property would constitute
an undeveloped coastal barrier as defined by the Department of Interior (DOI),
Fish and Wildlife Service (FWS), for the Coastal Barrier Resources System

(CBRS). This includes properties located along the Atlantic Ocean, Puerto Rico, United States Virgin Islands, Gulf of Mexico, and Great Lakes coasts.

(2) Any available information regarding State coastal zone management plans that may affect the property.

c. Endangered species. Be sure to include the following:

(1) A statement regarding the presence, or likely presence of any threatened or endangered species on the property.

(2) Obtain any available information regarding consideration of, or adverse effect(s) to, these species for documentation as part of the real property case file. Any available information on candidate species should also be documented.

d. Hazardous substance activity. Refer to FPMR at 101-47.202-2(b)(10) and be sure to include the following:

(1) A statement indicating whether any hazardous substance activity (as defined by EPA regulations at 40 CFR Part 373) took place on the property. If no such activity took place, disregard items (2) and (3).

(2) If such activity took place, include information on the type and quantity of such hazardous substance and the time at which storage, release or disposal took place.

(3) A statement warranting that all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date the property was reported excess.

(4) A covenant warranting that any additional remedial action found to be necessary (which was caused by and/or during ownership by the United States) after the date of transfer shall be conducted by the United States (reporting agency).

e. Historical significance. Refer to FPMR at 101-47.202-2(b)(8) and be sure to include the following:

(1) A statement regarding any historic significance of the property.

(2) A statement indicating whether the property is listed, is eligible for, or has been nominated for listing in the National Register of Historic places or is in proximity to any such property.

f. Lead-based paint. Be sure to include the following:

(1) A statement by the reporting agency that the property contains no improvements thought, or known to have been, constructed and/or renovated prior to 1978, or

(2) A listing of the portions of the property constructed and/or renovated prior to 1978 and an indication of the probable presence of lead-based paint in such structures, along with any available information regarding the use of lead-based paint or test data indicating the presence or absence of lead-based paint.

g. National Priority List of Superfund Sites (NPL). Be sure to include a statement indicating whether this property, or any portion thereof, is on the proposed or final National Priority List (NPL) of Superfund Sites.

h. Polychlorinated biphenyls (PCB). Refer to FPMR 101-47.202-2(c)(3) and be sure to include the following:

(1) A certification by a responsible party stating whether the property does or does not contain PCB transformers or other equipment regulated by EPA under 40 CFR part 761.

(2) If any such PCB articles are present, an assurance statement that they are currently, and will continue to be, maintained (by the reporting agency) in a state of compliance until disposal of the property.

i. Underground storage tanks (UST). Be sure to include the following:

(1) A statement regarding the presence of UST on the property and, if any UST are present, a completed EPA Form 7530-1 (Notification of UST) or form containing this information.

(2) A statement indicating that the reporting/sponsoring agency is in compliance with the EPA UST provisions codified at 40 CFR Part 280.

j. Unexploded ordnance. Refer to FPMR 101-47.202-7 and be sure to include the following:

(1) A statement by the reporting agency regarding the presence, or likely presence, of unexploded ordnance on or associated with the property, and, if thought or known to be present,

(2) A listing of activities that are restricted on such property and plans to remediate the hazardous condition prior to disposal.

k. Wetlands and floodplains. Refer to FPMR 101-47.202-2(b)(6) and be sure to include the following:

(1) Detailed information regarding any known flood hazards or flooding of the property;

(2) If located in a floodplain or wetlands, a listing of, and citations to, those uses that are restricted under identified Federal, State, or local regulations as required by Executive Orders 11988 and 11990.

4. Disposal requirements. As stated previously, compliance with NEPA and CERCLA is a requirement of all disposal actions. NEPA compliance shall be in accordance with GSA ADM 1095.1D and shall be documented in each real property case file. Compliance with CERCLA requires providing deed covenants as specified in the FPMR. Full disclosure of all known environmental concerns is mandatory. This includes, but is not limited to, consideration and discussion of the following environmental issues/concerns:

a. Asbestos-containing materials (ACM). Provide full disclosure of all known information regarding asbestos-containing materials and the required "Notice" in any disposal instruments. Refer to FPMR 101-47.304-13.

b. Coastal zone.

(1) Properties included in the Coastal Barrier Resources System (CBRS) are those located along the Atlantic Ocean, Puerto Rico, United States Virgin Islands, Gulf of Mexico, and Great Lakes coasts. For these properties, realty specialists must provide Federal agency screening notice and property maps to the Fish and Wildlife Service (FWS) for determination as to whether and what portion of the property would constitute an undeveloped coastal barrier.

(2) If FWS makes a negative determination (i.e., determines property is not part of an undeveloped coastal barrier), GSA may proceed with normal disposal process. If a positive determination is rendered, GSA must provide notice in any conveyance document that property has been included in the CBRS and initiate further consultation with FWS.

(3) Uses that are restricted, and how they are restricted under State and coastal zone management plans must also be included in conveyance documents for properties on which a positive determination was rendered.

c. Endangered species.

(1) Review disposal action(s) for effects on threatened or endangered species, and where disposal actions might affect such species, contact the regional office of the Fish and Wildlife Service (FWS) to obtain additional information.

(2) Where contact with FWS indicates a potential impact on an endangered or threatened species or a designated critical habitat, initiate informal or formal consultation process in accordance with FWS guidance.

d. Hazardous substance activity.

(1) Provide all known information on the type and quantity of any hazardous substance stored, released, or disposed of on the property.

(2) Provide a statement warranting that "all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken" before the date the property was transferred.

(3) If no such activity took place, provide a statement, in accordance with 40 CFR part 373, that there is no evidence to indicate that hazardous substance activity took place on the property during the time the property was owned by the United States.

(4) Provide a covenant warranting that any additional remedial action found to be necessary (which was caused by and/or during ownership by the United States) after the date of transfer shall be conducted by the United States.

(5) Include a statement providing for a right of entry for the United States in the event that remedial action is found to be necessary after the date of transfer.

e. Historical significance. Provide a statement detailing any, and all, restrictions or requirements imposed on potential purchasers as a result of the historical significance of the property.

f. Lead-based paint. Provide a statement regarding the likely presence or absence of lead-based paint on the property, and, if present, provide a notice, in accordance with the Department of Housing and Urban Development (HUD) regulations, in any disposal instruments.

g. Polychlorinated biphenyls (PCB).

(1) Provide a statement that the property does or does not contain any PCB equipment. (2) If present, provide a listing of the PCB equipment which was identified by the reporting agency in the ROE, and, (3) Provide a statement that any such equipment has been maintained, and is currently, in a state of

compliance as of the date of transfer.

h. Underground storage tanks (UST). Provide all known information regarding the presence of UST on the property and a statement that the UST have been maintained, and is currently, in a state of compliance as of the date of transfer.

i. Unexploded ordnance. Provide a statement regarding the presence, or likely presence, of unexploded ordnance and include restrictions as identified by the reporting agency in any disposal instruments.

j. Wetlands and floodplains.

(1) Identify uses that are restricted, and how they are restricted under State and local floodplain and wetland regulations; and (2) Provide a statement which restricts these uses by the grantees or purchasers and any successors.

5. Miscellaneous. This section covers environmental requirements associated with the real property disposal program which were not addressed in the ROE or disposal sections of the chapter. Realty specialists should consider these issues where applicable.

a. Reverted properties. Generally, reverted properties are to be treated similar to reports of excess with regard to disclosure of any environmental considerations. Each property must be reviewed case-by-case with the sponsoring agency and a site inspection must be performed prior to revesting with the Government. Sponsoring agencies should be advised that GSA will not accept property which is environmentally impacted until all remedial action necessary has been taken.

b. On-site inspections. During property inspections, regional personnel should spot check any, and all, known environmental hazards or issues which were previously identified in the ROE and be alert to other environmental hazards/issues. In addition, safety precautions should be taken to prohibit contact with environmental hazards which might result in a threat to human health or the environment.

c. Interim use. All parties accessing the property for interim uses must be advised of any, and all environmental hazards known to be present on the property prior to their occupancy. In addition appropriate restrictions and prohibitions must be made a part of their interim use agreement to prevent any threat to human health or the environment.

d. Unique situations. Due to the sensitive and controversial nature of many

environmental issues, regional personnel must advise and consult with a central office environmental specialist prior to taking actions that would be considered precedent setting.

e. Defense Environmental Restoration Program (DERP). The U.S. Army Corps of Engineers (COE) executes the portion of the DERP responsible for environmental restoration at active and formerly used Department of Defense (DOD) sites. Properties currently or formerly utilized by DOD, on which issues related to environmental contamination, unexploded ordnance, building demolition and/or debris removal arise, should be reported to the COE for their evaluation. Questions pertaining to the DERP should be discussed with a Central Office environmental specialist.