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Report to Congressional Requesters

February 1990

HAZARDOUS MATERIALS

Inadequate Safeguards Over Sales Pose Health and Environmental Dangers



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National Security and
International Affairs Division

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The Honorable Vic Fazio
Chairman, Subcommittee on Legislative
Committee on Appropriations
House of Representatives

The Honorable Mike Synar
Chairman, Subcommittee on Environment,
Energy and Natural Resources
Committee on Government Operations
House of Representatives

In your letter of May 10, 1989, you requested that we review the Department of Defense's and the General Services Administration's surplus sales program policies and procedures to determine what controls are in place to prevent hazardous materials from being sold to buyers who may not properly transport, handle, use, store, and, if necessary, dispose of the materials. Your request stemmed from the discovery of a large quantity of improperly stored hazardous materials near Collinsville, California. You subsequently asked us to obtain information regarding a later discovery of improperly stored hazardous materials at the Port of Los Angeles. This report addresses these issues.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time we will send copies to the chairmen of other appropriate committees; the Secretaries of Defense, the Air Force, the Army, and the Navy; the Director, Office of Management and Budget; and other interested parties.

This report was prepared under the direction of Nancy R. Kingsbury, Director, Air Force Issues, who may be reached on (202) 275-4268 if you or your staff have any questions concerning this report. Other major contributors to this report are listed in appendix I.

Frank C. Conahan
Assistant Comptroller General

Executive Summary

initiated efforts to provide some safeguards, such as post-award surveillance.

Principal Findings

Hazardous Materials Sold by DOD and GSA Were Handled Improperly

GAO's review disclosed several instances in which individuals bought hazardous materials from DOD and GSA, and, because of improper storage or use, those materials may have become hazardous waste. For example, hundreds of containers of hazardous materials sold by DOD during the 1970s were recently found to be leaking near Collinsville, California.

Legal Restrictions Are Minimal

According to DOD and GSA officials, the Federal Property and Administrative Services Act of 1949 does not impose restrictions on who can buy surplus hazardous materials. GAO's review of DOD, GSA, Environmental Protection Agency, and Department of Transportation regulations showed that the only restrictions are federal requirements concerning transportation of hazardous materials. GAO's review of California state regulations and regulations from three of its counties indicated that licensing requirements for transporting hazardous materials are minimal.

Better Control Over DOD and GSA Sales Needed

DOD and GSA did not provide material safety data sheets to buyers. These data sheets, which are available for all hazardous materials, contain information about the hazards associated with the materials, how to store them, and, when necessary, how to dispose of them. In addition, DOD rarely followed its procedures for screening potential buyers and providing surveillance of buyers after the materials are bought. DOD officials said that they were not confident they had a legal basis to screen potential buyers and carry out surveillance of the buyers.

DOD and GSA have initiated some efforts to improve the management of their hazardous material sales. For example, GSA's Region IX, which includes California, has recently begun requiring that all hazardous materials for sale be more explicitly identified in the sales catalogs. However, DOD and GSA need to improve the management of extremely hazardous materials to provide better safeguards because of the greater harm that can result from improper use, storage, and disposal of them.

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Purpose

The Department of Defense (DOD) and the General Services Administration (GSA) have sold hazardous materials to buyers who have improperly stored and/or used them, creating potential dangers to humans and the environment.

As a result of the recent discoveries of improperly stored hazardous materials in California, the Chairman, Subcommittee on Environment, Energy and Natural Resources, House Committee on Government Operations, and the Chairman, Subcommittee on Legislative, House Committee on Appropriations, requested that GAO determine whether DOD and GSA were ensuring that hazardous materials were sold only to buyers that could properly transport, handle, use, store, and, if necessary, dispose of the materials as hazardous waste.

Background

The Federal Property and Administrative Services Act of 1949, as amended, and its implementing regulations set the requirements for the disposal of federal excess personal property. The act permits DOD and GSA to sell surplus hazardous materials to the public. If the materials are not sold, DOD and GSA are to dispose of them through incineration, burial in a landfill, or other appropriate means.

DOD officials said that DOD avoided disposal costs of about \$170 million from October 1986 through March 1989 by selling hazardous materials rather than disposing of them as hazardous waste. GSA did not have comparable data available.

Results in Brief

DOD and GSA have sold hazardous materials to buyers who have improperly transported, handled, used, stored, or disposed of the materials, which may have endangered humans and the environment. Officials from these agencies have not always implemented their own procedures to provide adequate safeguards for those who buy hazardous materials. DOD and GSA believe that the Federal Property and Administrative Services Act of 1949, as amended, prevents them from restricting who can purchase surplus hazardous materials. Responsibility for the unsafe handling and improper disposal of hazardous materials sold to the public has not been determined.

GAO's review indicated that DOD and GSA did not have adequate internal management controls to ensure that hazardous materials for sale were properly identified and that prospective buyers were appropriately informed of the hazardous nature of the materials. DOD and GSA have

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Recommendations

GAO recommends that the GSA Administrator and the Secretary of Defense, in cooperation with one another, implement stronger safeguards to ensure that all buyers of hazardous materials, especially buyers of extremely hazardous materials, (1) are aware of the dangers associated with such materials and that special handling and disposal are required and (2) are able to handle the materials properly after the sale.

GAO also recommends that GSA ensure that sales catalogs issued by each of its regional offices include sufficient information to alert potential buyers to the hazards associated with the materials.

Agency Comments

As requested, GAO did not obtain official agency comments on this report. However, GAO discussed the report with DOD and GSA officials and incorporated their comments as appropriate.

Contents

Abbreviations

DLA	Defense Logistics Agency
DOD	Department of Defense
EPA	Environmental Protection Agency
GAO	General Accounting Office
GSA	General Services Administration
RCRA	Resource Conservation and Recovery Act

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Hazardous Material Sales

The objectives of DOD's and GSA's sales programs are to sell surplus government-owned property in the most expeditious manner possible, merchandise such property in a manner that will bring maximum return to the government, and perform these services economically, consistent with the best interest of the government.

From October 1986 to March 1989, DLA sold hazardous materials with an acquisition value (original purchase price) of \$104 million for about \$5 million and hazardous waste with an acquisition value of \$12 million for about \$2 million. DLA officials told us they are very aggressive in selling as much hazardous materials as possible because (1) the Federal Property and Administrative Services Act of 1949, as amended, requires DOD to do so and (2) every hazardous material sale decreases the amount DOD will have to pay for waste disposal. DLA estimated that by selling the hazardous materials for \$5 million, it avoided disposal costs of about \$170 million.

GSA officials told us that they do not sell hazardous waste and that GSA's policy for selling hazardous materials requires that the materials are to be unused, in their original containers, and similar to materials that can be bought on the open market. They said that GSA does not maintain records on the total amount of hazardous materials that are sold each year. All sales receipts are grouped into one yearly sales figure, and GSA does not have the capability to separate the receipts to determine what amount was from hazardous material sales.

Objectives, Scope, and Methodology

As a result of the recent discovery of improperly stored hazardous materials near Collinsville, California, the Chairman, Subcommittee on Environment, Energy and Natural Resources, House Committee on Government Operations, and the Chairman, Subcommittee on Legislative, House Committee on Appropriations, requested that we review DOD's and GSA's surplus sales program policies and procedures to determine how DOD and GSA were ensuring that hazardous materials were sold only to buyers that could properly transport, handle, use, store, and, if necessary, dispose of the hazardous materials as hazardous waste. In addition, we were subsequently asked to obtain information regarding the discovery of improperly stored hazardous materials at the Port of Los Angeles.

To determine what controls are placed on hazardous material sales, we interviewed officials at the Environmental Protection Agency (EPA), Department of Transportation, DOD, and GSA, Washington, D.C.; GSA's

Introduction

Hazardous materials are defined in the implementing regulations for the Hazardous Materials Transportation Act, as amended. The materials can range from a can of paint similar to those at a hardware store to highly toxic chemicals used to decontaminate weapons in the event of chemical warfare.

The Federal Property and Administrative Services Act of 1949, as amended, governs the disposal process of hazardous materials. The purpose of the disposal process is to get maximum use of the materials, realize some monetary return if the materials can be sold, and minimize the problems associated with disposal. The materials can be disposed of by reuse within the agency that is trying to dispose of the materials, transfer to another federal agency, or donation to state governments or other authorized non-federal entities.

If the federal government cannot use the materials, they become surplus and can be sold to the public. The federal government does not have to pay to dispose of the materials once they are sold. If the materials are not sold, they become hazardous waste¹ and are to be disposed of by incineration, burial in a hazardous waste landfill, or other appropriate means.

The two principal federal agencies responsible for selling surplus hazardous materials are the Department of Defense (DOD) and the General Services Administration (GSA). DOD sells its own materials, whereas GSA sells materials procured for other agencies.

In 1980 the Office of the Secretary of Defense tasked the Defense Logistics Agency (DLA) with disposing of certain types of hazardous materials. DLA delegates responsibilities for DOD's surplus sales program from its headquarters through the Defense Reutilization and Marketing Service and regional offices to 218 Defense Reutilization and Marketing Offices generally located at DOD installations throughout the world.

GSA delegates responsibilities for its surplus sales program from its headquarters in Washington, D.C., through its regional offices to the five regional distribution centers and the two personal property centers.

¹According to DOD, hazardous materials are considered hazardous waste only after DOD has tried to reuse, transfer, donate, and sell the materials. However, the Environmental Protection Agency states that hazardous materials become hazardous waste once they can no longer be used for their intended purposes.

Chapter 1
Introduction

officials to determine whether both DOD and GSA were complying with their sales procedures.

We made our review between May and November 1989 in accordance with generally accepted government auditing standards. As requested, we did not obtain official agency comments on this report. However, we discussed the report with DOD and GSA officials and incorporated their comments as appropriate.

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Region IX office, San Francisco, and Western Distribution Center, Rough and Ready Island, California; DLA, Alexandria, Virginia; Defense Reutilization and Marketing Services headquarters, Battle Creek, Michigan; the marketing service's Ogden, Utah, regional office; and some of the marketing service's local offices. We also reviewed each of the agencies' policies and regulations on hazardous material sales.

We visited officials from the state of California and three of its counties (Sacramento, Yolo, and San Joaquin) to identify any state and local laws pertaining to hazardous material sales. We chose San Joaquin County because DOD's and GSA's Rough and Ready Island field offices are located in that county. We selected the other two counties because of their close proximity to the Defense Reutilization and Marketing Office at Rough and Ready Island. We interviewed state and local officials regarding recent discoveries of improperly stored hazardous materials to determine the specific civil or criminal charges brought against the owners of the materials. We did not determine if other states had any restrictions on who could buy hazardous materials. We also visited Los Angeles County officials and Port of Los Angeles officials to obtain information on the improper storage of hazardous materials on the Port's property.

We reviewed case histories at DOD and GSA legal offices and discussed the histories with legal office officials to determine the potential liability that the agencies may face for cleanup if a buyer improperly stores or disposes of hazardous materials bought from these agencies.

We reviewed both DOD's and GSA's sales programs to determine how they prevented selling hazardous materials to unauthorized buyers or buyers who do not have the capacity to safely transport and/or dispose of hazardous materials. We reviewed GSA sealed bid sales and DOD sealed bid and local auction sales at the Rough and Ready Island facilities. We also attended some of these auctions and observed how they were conducted.

We interviewed responsible officials and reviewed sales contract files to determine the extent of public hazardous material sales at the Defense Reutilization and Marketing Offices at Rough and Ready Island, the Public Works Center at San Diego, Marine Corps Air Station at El Toro, and McClellan Air Force Base, California; Kirtland Air Force Base, New Mexico; Fort Sill, Oklahoma; Mountain Home Air Force Base, Idaho; and Lone Star Army Ammunition Plant, Texas. We reviewed contract files and the terms and conditions of sales made between September 1987 and March 1989 to determine the extent of control exercised over hazardous material sales. We also reviewed file records and interviewed

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Buyers Have Improperly Handled
Hazardous Materials

Figure 2.1: Hazardous Materials Stored
Near Collinsville, California



Figure 2.2: Hazardous Materials Stored
on Port of Los Angeles Property



Buyers Have Improperly Handled Hazardous Materials

Some buyers of hazardous materials sold by DOD and GSA have improperly stored and used the materials, causing potential harm to humans and the environment. Because the materials were not properly stored and used, they may have become hazardous waste, which could result in violations of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended. Legal actions have been or are being considered to determine who is liable for the violations and the cleanup.

Improper Handling Has Created Hazardous Waste

Hazardous materials sold by DOD and GSA can become hazardous waste after sale if the buyer handles the materials improperly. Our review disclosed several examples in which buyers improperly stored and/or used hazardous materials bought from DOD and GSA.

Improper Storage of Hazardous Materials

Under both federal and California state regulations, hazardous materials stored or abandoned in such a way that pollutes the environment become waste. In California hazardous materials may also become hazardous waste if they are mislabeled or packaged in deteriorated or damaged containers.

According to EPA officials, the point at which hazardous materials become hazardous waste depends on how the materials are stored, transported, and disposed of. The following are examples of hazardous materials purchased from DOD and GSA that may have become hazardous waste when they were abandoned or began to leak.

- An individual bought three drums of cleaning compound from GSA in 1988 at a public sealed bid sale. These drums were later found discarded beside a highway.
- An individual bought paint from the government's surplus program and stored the paint in a rented storage locker. The paint was later discovered to be leaking into adjacent storage lockers.
- In April 1989 a storage shed near Collinsville, California, was discovered to contain hundreds of containers of various hazardous materials sold to the owner in the 1970s, primarily through the DOD surplus sales program. Some of the containers were leaking (see fig. 2.1), and nearby residents were evacuated while actions were taken to make the materials safe.
- In August 1988 Port of Los Angeles officials discovered leaking containers of hazardous materials on property that it owned. These materials had been purchased (some very recently) from various DOD surplus material sales offices and had been stored on the Port's property without its permission. Some of the hazardous materials had begun to leak (see fig. 2.2).

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responsible. EPA and DOD officials told us that agency resources could be used to clean up the site.

Conclusions

Some hazardous materials sold by the government to the public may have become hazardous waste because of improper storage or use, which resulted in potential harm to humans and the environment. Whether the government is liable for the improper storage and use of the hazardous materials sold to the public has not been determined.

Improper Use of Hazardous Materials

Even if hazardous materials are properly stored and transported, they may also become hazardous waste by improper or inappropriate use. For example, DS2 is a decontamination agent used by the military to counter the residue of chemical warfare. Depending on its use, DS2 can be hazardous to humans and the environment. DS2 has many adverse effects: it is toxic and highly corrosive and can cause severe chemical burns; stricture of the esophagus; and damage to the liver, cornea of the eye, and the central nervous system. It may also cause adverse reproductive effects in humans. Protective clothing must be worn when handling DS2 to prevent contact with the skin.

On June 28, 1988, the surplus sales office at Kirtland Air Force Base sold 10 5-gallon cans of DS2 to an individual. We contacted the buyer, who told us that he had used all 50 gallons of the DS2 to clean automobile parts and empty 55-gallon drums. The buyer stated that he did not remember receiving any specific instructions regarding DS2 use and that he did not wear any protective equipment while using the DS2.

Dangers Associated With Hazardous Materials Vary

Much of the hazardous materials found near Collinsville and at the Port of Los Angeles included materials similar to those that can be purchased at a hardware store, such as paints, sealants, adhesives, and solvents. The only difference is that DOD and GSA may sell larger quantities of these materials than hardware stores. On the other hand, some of the hazardous materials that have been sold by DOD included items that are more dangerous, such as DS2, special paints, aircraft surface cleaning compounds, and storage battery components.

Because these chemicals are more dangerous, they require special handling, including protective clothing, containers, and storage areas. DOD has pre-award procedures that require the buyers to be informed of what they are buying. However, in a number of cases involving extremely hazardous materials, we found that the buyers were not appropriately informed of any special handling and other safety requirements.

Legal Actions to Determine Liability

EPA or local authorities were preparing to bring or had brought legal charges against those who improperly stored the hazardous materials near Collinsville or at the Port of Los Angeles. A determination will be made on whether the hazardous materials were converted to hazardous waste by the inappropriate or illegal storage practices and on who is responsible for paying for the cleanup of the sites. If the government is

such as solvents, paints, and sealants. The regulations merely state that no material shall be disposed of (including sales) in violation of any other applicable law, and GSA officials told us that they believe this part of the regulation does not permit them to restrict who can purchase surplus hazardous materials.

Most Other Environmental Protection Regulations Do Not Apply to Hazardous Material Sales

Environmental protection regulations issued by EPA and the Department of Transportation do not restrict who can buy hazardous materials. Environmental regulations focus on hazardous waste handling and disposal.

EPA's environmental protection regulations restrict hazardous waste sales but do not restrict hazardous material sales. The Department of Transportation's regulations require transporters of hazardous waste to obtain an EPA identification number, but transporters of hazardous materials are not required to do so. The regulations for hazardous materials pertain only to the Department's packaging, marking, labeling, and placarding requirements for shipments. They are not oriented toward regulating who can transport hazardous materials but rather toward safe transport of hazardous materials and the furnishing of essential information about the cargo to emergency response personnel in the event of an accident.

The only other regulation we found that restricts potential buyers of hazardous materials was a section of the California Vehicle Code, which requires that individuals who transport for a fee hazardous materials in quantities above 500 pounds to be licensed by the state.

DOD Regulations Require Potential Waste to Be Treated as Materials

EPA disagrees with the Defense Reutilization and Marketing Service's guidance on when hazardous materials become hazardous waste. EPA officials told us that the Defense Reutilization and Marketing Service guidance on when to treat hazardous materials as hazardous waste results in all hazardous property being treated under hazardous material handling requirements, when the property may in fact be a hazardous waste. They stated that hazardous material handling requirements, when applied to hazardous waste, do not adequately protect humans and the environment.

Defense Reutilization and Marketing Service officials told us that their guidance differentiates hazardous waste from hazardous materials. It

Controls Over DOD and GSA Sales of Hazardous Materials

The Federal Property and Administrative Services Act of 1949, as amended, does not specifically address who can bid on surplus hazardous materials. Federal Property Management Regulations governing the sale of hazardous materials generally do not contain any requirements, including licensing, concerning who can purchase or transport hazardous materials. Moreover, neither DOD nor GSA has implemented any broad controls over who could buy hazardous materials.

DOD and GSA regulations place restrictions on the sale of some specified types of hazardous materials, such as explosives. Other environmental regulations do not apply to the sale of hazardous materials. In addition, except for some Department of Transportation safety requirements, such as proper labeling and placarding of containers, and one section of the California Vehicle Code, we could not find any other restrictions that would apply to hazardous material sales.

DOD and GSA have some internal controls over hazardous material sales. However, these controls were not routinely implemented and thus did not ensure that all hazardous materials for sale were properly identified and that the buyers were appropriately informed concerning the hazardous nature of the materials purchased. DOD has procedures that could ensure proper use, storage, and disposal of hazardous materials. However, these procedures were not routinely implemented at the sales facilities we reviewed. GSA's controls over hazardous materials it sells generally end once the materials leave the sales facility.

Regulations Governing Sales of Hazardous Materials Do Not Specifically Address Restrictions on Potential Buyers

The Federal Property and Administrative Services Act of 1949, as amended, does not specifically address who can purchase surplus hazardous materials. Officials at both DOD and GSA told us that they had not implemented any broad controls over who could buy hazardous materials because they believe that the act prevents them from doing such.

The Federal Property Management Regulations implement the act and govern the utilization and disposal of excess and surplus material. A subpart of the regulations covers the sale, abandonment, or destruction of surplus property, including hazardous materials, and prescribes the policies and methods to be used, including how the materials should be organized, packaged, and described.

Although the regulations specifically prohibit the sale of some hazardous materials, such as explosives and controlled substances, the regulations are not as specific concerning the sale of other hazardous materials

subject to RCRA requirements, has also been under discussion between DOD and EPA officials for several years with no resolution.

Hazardous Materials for Sale Not Properly Identified

DOD's and GSA's controls were not adequate to ensure that hazardous materials for sale at their Rough and Ready Island sales facilities were properly identified and that potential buyers were appropriately informed that the materials were hazardous.

In a December 1985 bulletin on hazardous material disposal, GSA required holding agencies to advise it of any characteristics of the surplus property for sale that pose an actual or potential threat to humans and the environment. The holding agencies were to annotate their surplus property documents to show the extent and nature of the hazard and cite specific regulations issued by appropriate regulatory agencies, such as EPA and the Department of Transportation, governing the acquisition, use, storage, transportation, packaging, or disposition of the items.

For the sales we reviewed, GSA's Region IX did not identify in its sales catalog materials as being hazardous. Also, the region did not inform buyers of applicable laws and regulations concerning the handling and disposition of the materials.

Neither the property documents submitted by the holding agencies nor the sales descriptions for GSA's Rough and Ready Island sales we reviewed adequately showed the nature and extent of the hazards or cited the specific regulations governing the acquisition, use, storage, transportation, packaging, or disposition of the materials for sale. For example, when the holding agency turned in several lots of sealing compound, neither the descriptions in the sales catalog nor the documents used to turn in hazardous materials cited the Department of Transportation hazard classifications, specific hazardous characteristics, and the ingredients of the materials.

Material Safety Data Sheets, which are available for all government-owned hazardous material, contain information on the hazards associated with the material, ingredients, handling, storage, transportation, and disposal and personal safety requirements such as clothing or other

³Holding agencies requisition the materials from GSA and use them or eventually declare them to be excess to their needs. They have possession of the materials before they are turned over to GSA for the disposal process.

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states that all hazardous substances turned in to the Defense Reutilization and Marketing Offices are to be considered hazardous materials, except those "predetermined" wastes, which are listed in 40 C.F.R. 261.31. Predetermined waste constitutes only a small percent of the hazardous property at the marketing offices.

The marketing offices will reclassify hazardous materials to hazardous waste only if the materials cannot be reused within DOD, transferred to another agency of the federal government, donated to a non-federal government entity, or sold.

According to EPA officials, the procedures that the Defense Reutilization and Marketing Service uses before the marketing offices decide whether to reclassify hazardous materials as hazardous waste, provides less rigorous environmental protection procedures for hazardous property handling, packaging, and storing than under RCRA. Hazardous materials may exhibit the same characteristics as hazardous waste and possess the same potential for harm to humans or the environment as hazardous waste.

Although hazardous material storage and handling regulations contain provisions for ensuring safety of personnel and protection of the environment, the regulations do not cover situations encountered in accumulating hazardous waste. For example, hazardous material regulations do not limit the amount of hazardous materials that can be accumulated at a site or the length of time the materials can remain at a site; however, RCRA regulations specify such limitations for hazardous waste.

EPA officials told us that the Defense Reutilization and Marketing Service's guidance may conflict with the definition of hazardous waste contained in implementing regulations for RCRA. EPA officials told us that regardless of whether the materials are reused, transferred, donated, or sold, the end use of the materials determines whether they are waste. If the materials are used consistently with their normal intended purposes, they do not necessarily become waste. However, if the materials are used for purposes that are different from their normal application (e.g., lube oil used in a heat generating facility or a decontamination solution that is used as a weed killer), they become waste and must be handled in accordance with RCRA requirements.

The Defense Reutilization and Marketing Region Counsel said the issue of when a hazardous substance becomes a hazardous waste, and thus

The Defense Reutilization and Marketing Offices reserve the right, by a clause in the sales contract, to inspect the buyer's transportation equipment that will be used to remove the hazardous materials as well as the buyer's treatment, storage, or disposal facilities. We were told that the sale can be canceled or terminated if the inspection discloses that the buyer is not responsible.

DOD sales program officials stated that their surveys of potential buyers largely consist of no more than a desk review of the Statement of Intent submitted by the highest bidder and, as we observed, are seldom documented. We noted that some Statements of Intent submitted for DOD's review contained only the potential buyer's signature with no other information filled in, but no action was taken by DOD officials to question the potential buyers' responsibility.

Even though DOD regulations require surveys of potential buyers and follow-up reviews of buyers, DOD officials told us that they are not sure they have a legal basis for doing post-award surveillance. They also stated that this may be one reason why some of the surveillance is not done.

Initiatives to Improve the Sales and Handling of Hazardous Materials

DOD and GSA have taken initial steps to improve the management of their hazardous material sales. DOD has tried a variety of initiatives to better control the final disposition of hazardous materials that are sold, and GSA is revising the Federal Property Management Regulations.

DOD Efforts to Improve Controls Over the Sale of Hazardous Property

DOD has implemented or plans to implement changes in its hazardous material sales programs, including efforts to ensure proper use, handling, storage, and disposal of hazardous materials to avoid future incidents similar to that near Collinsville.

In May 1989 the Defense Reutilization and Marketing Service required that all hazardous material be withdrawn from local sales except items in the following categories: cleaning and polishing compounds, paints and varnishes (paints that contain lead or are a chemical agent resistant coating will not be sold), preservatives and sealing compounds, adhesives, and oils and greases. The marketing service also outlined a new policy that states that the buyer of hazardous materials or waste will be allowed to segregate and pick out only those items that the buyer wants.

protective gear to be worn. However, the GSA sales catalogs that we reviewed did not notify buyers that the data sheets were available.

DOD regulations require that the documents used to turn in hazardous materials for disposal list the chemical names of hazardous and nonhazardous contaminants to indicate if the property was hazardous material or hazardous waste.

DOD's files pertaining to Rough and Ready Island hazardous material sales in fiscal year 1988 revealed that hazardous materials were appropriately identified. However, for local auction sales conducted over the first 6 months of fiscal year 1989, we found DOD's Rough and Ready Island field office failed to identify 30 of the 110 items (27 percent) as hazardous material. As a result, these materials could potentially be mishandled or disposed of improperly.

DOD officials at its Rough and Ready Island field office, which recently took over program responsibility for sales and administration, told us that they did not receive any training before taking over identifying and labeling the sales items. Before the program was transferred, the field office relied on the regional office in Ogden to review and apply any sales terms and conditions to items listed in the catalog. After the transfer, all reviews were done within the field office. The field office's lack of training could have contributed to mistakes in identifying hazardous materials and assigning proper sales terms and conditions.

Controls Over the Sales and Handling of Hazardous Materials

Both DOD and GSA have some internal controls over the sale of hazardous materials. GSA requires the buyers to certify that they will comply with certain conditions of the sale, including the proper transportation, storage, and disposal of the hazardous materials once purchased. However, GSA does not perform or require a follow-up review to determine whether buyers are complying with the conditions.

For hazardous materials sold through DOD national sales program, contracts contain a clause granting, as a condition of sale, the right of government surveillance over the use and disposal of the materials. DOD also requires the contracting officer to survey potential buyers to determine if the buyer is responsible (i.e., has not defaulted on a sale, has paid for material purchased previously) before a sale is made. The potential buyer must also submit a Statement of Intent (what the buyer plans to do with the material). This statement is reviewed by DOD, and, if a negative determination is made, the sale is to be rejected.

to monitor compliance with hazardous material rules at turn-in activities. These changes are strictly regional initiatives and are not applicable to GSA agencywide.

Conclusions

DOD and GSA have concluded that the Federal Property and Administrative Services Act of 1949 prevents them from restricting who can buy surplus hazardous materials offered for public sales. However, DOD has initiated some efforts but has not fully implemented them to provide greater safeguards over hazardous material sales.

GSA's Region IX implemented procedures to facilitate identification of those who buy hazardous materials that are potentially vulnerable to improper dumping and to ensure that all buyers are aware of handling and storage requirements for potentially hazardous items. In addition, the Western Distribution Center at Rough and Ready Island has established procedures for stenciling the sale number, the buyer's name and address, and the date the item was removed from the facility. These changes, if effectively implemented agencywide, should help ensure that potential buyers know what they are purchasing.

We do not want to suggest that the government must take prime responsibility for ensuring that buyers safely handle the hazardous materials being sold, especially the more common materials such as paints and lubricants. However, we believe that the government should provide safeguards against improper use when it sells hazardous materials, especially extremely hazardous materials. We believe government officials should implement measures to ensure that buyers are aware of the restrictions on the use of extremely hazardous materials and of any special requirements for handling such materials. Also, we believe that internal management controls should be implemented to ensure that buyers of the more toxic materials know specifically what they are buying and the special handling and disposal requirements for them.

Recommendations

We recommend that the GSA Administrator and the Secretary of Defense, in cooperation with one another, implement stronger safeguards to ensure that all buyers of hazardous materials, especially buyers of extremely hazardous materials, (1) are aware of the dangers associated with such materials and the special handling and disposal requirements and (2) are able to handle the materials properly after the sale.

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This minimizes the chances of the buyers improperly discarding materials that they do not want.

In November 1989 the marketing service withdrew all categories of hazardous materials from local sales. The hazardous materials withdrawn from local sales are to be processed for national sealed bid sales. The rationale for this is to eliminate buyers that are not able to handle the hazardous materials properly and make it easier to control what happens to the materials sold.

Officials at the Defense Reutilization and Marketing Regional Office at Ogden told us that withdrawing hazardous materials from local sales could increase the total amount of hazardous materials being disposed of as hazardous waste. Small quantity lots that the marketing offices had been selling now may not attract national customers, and, as a result, these small lots may not be sold as easily. Items that were included in the five categories listed previously may now become hazardous waste, even though much of the items are identical to materials, such as paints, that can be bought at a hardware store.

GSA Efforts to Revise
Federal Procurement
Regulations

During the last 5 years, GSA has been rewriting the Federal Property Management Regulations to consolidate all the sections pertaining to reuse, transfer, donation, and sale of hazardous materials into one section. GSA officials told us that this will make it easier for those who are responsible for selling hazardous materials to keep up with the requirements. However, the latest draft revision, in July 1989, did not reveal any new specific guidance on how to manage and sell hazardous materials or how GSA should ensure that the buyer intends to use the hazardous materials in an environmentally safe manner.

In April 1989 GSA's Region IX Assistant Administrator implemented procedures to facilitate identification of those who buy hazardous materials that are potentially vulnerable to improper dumping and ensure that all buyers are aware of handling and storage requirements for potentially hazardous items. For example, sales catalogs listing hazardous materials are to include a statement indicating that a Material Safety Data Sheet is available. The Material Safety Data Sheet would be sent to the buyer along with the Notice of Award. The Western Distribution Center at Rough and Ready Island has established procedures for stenciling the sale number, the buyer's name and address, and the date the item was removed from the facility. In addition, the region has developed a quarterly review system that uses a hazardous material compliance checklist

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**Chapter 3
Controls Over DOD and GSA Sales of
Hazardous Materials**

We also recommend that GSA ensure that sales catalogs issued by each region include all necessary information to alert potential buyers to the hazards associated with the materials.



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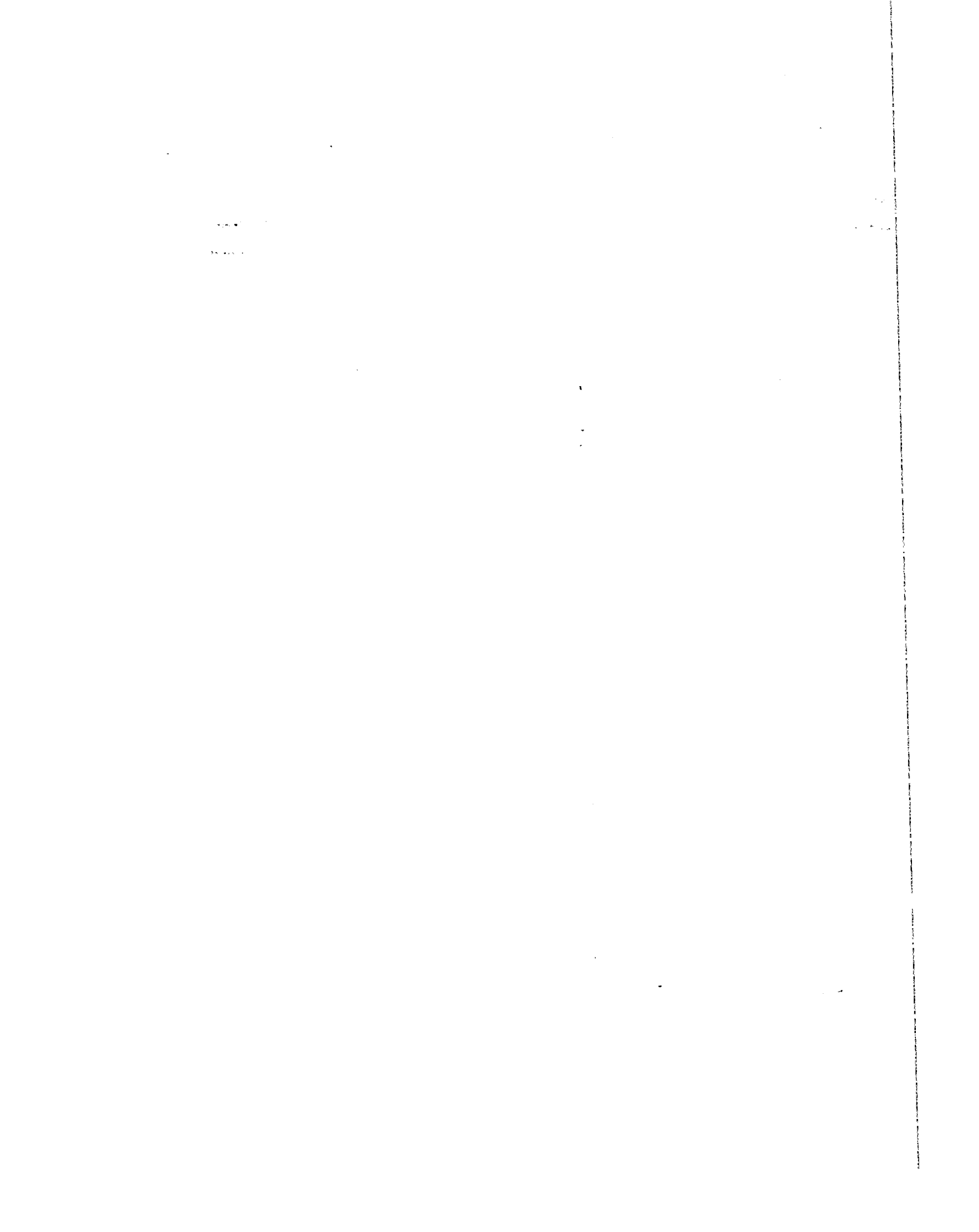
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