

Environmentally Preferable and Energy Efficient Products and Services

Background:

Under Section 6002 of the Resource Conservation and Recovery Act (RCRA), Congress provided a mechanism to increase Government purchase of recycled products. These purchases, in turn, help to stimulate markets for recovered materials.

On October 20, 1993, President Clinton issued Executive Order 12873 "Federal Acquisition, Recycling, and Waste Prevention," applicable to all Executive Branch agencies. It reaffirms and strengthens the affirmative procurement requirements contained in RCRA and assigns specific additional regulatory responsibilities to EPA.

Policy Letter 92-4, "Procurement of Environmentally-Sound and Energy-Efficient Products and Services," issued November 19, 1992, by the Office of Federal Procurement Policy establishes policies implementing RCRA within the executive branch.

RCRA Section 6002 requires EPA to designate products that can be made with recovered materials and to recommend practices for procuring them. Once EPA designates a procurement item or product category, procuring agencies are required to buy the item with the highest recovered materials content level practicable.

Prior to 1995, EPA issued five procurement guidelines for paper and paper products, re-refined lubricating oil, retread tires, building insulation, and cement and concrete made with fly ash. These "designated items" have been the focus of EPA buy recycled efforts over the past several years. On May 1, 1995, EPA published the Comprehensive Procurement Guideline (CPG), announcing 19 more items that are or can be made with recovered materials. (See attached table titled EPA Designated Items).

In addition, EPA issued the Recovered Material Advisory Notice (RMAN) as a user guide on purchasing designated items made with recovered materials. The RMAN further promotes the Federal agency recycling program and encourages greater use of the acquisition process to develop and stimulate private industry interest in markets for recovered materials.

Policy:

As the lead Federal agency responsible for managing most of the Nation's public lands and natural resources, it is the DOI's policy to use sound business practices to maximize the purchase of items made with recovered materials. To comply with the requirements in RCRA and E.O. 12783, the Department must have an Affirmative Procurement Program. Its objectives are:

- o Implement cost-effective contracting preference programs favoring the acquisition of environmentally preferable and energy-efficient products and services.
- o Ensure that procurement specifications do not exclude the use of recovered materials and do not require items to be manufactured from virgin materials.
- o Eliminate or reduce the generation of hazardous waste and the need for special material processing (including special handling, storage, treatment, and disposal).
- o Promote the use of non-hazardous and recovered materials.
- o Promote the use of cost-effective waste reduction when creating plans, drawings, specifications, standards, and other product descriptions. Methods may include authorizing material substitutions, extension of shelf-life, and process improvement.

Requirements:

1. All Interior bureaus and offices are required to establish Affirmative Procurement Programs (APP) for all items designated by EPA or DOI. The APP must be revised to reflect newly designated items within one year from the date they are designated. The APP should require that 100 percent of bureau/office purchases of products meet or exceed the EPA or DOI guideline standards unless documented to explain why that level is not acceptable.
2. Contracting officials shall give preference to practices and products that conserve natural resources and protect the environment pursuant to RCRA.
3. Contracting officers shall assist program managers in promoting the purchase of products made from recovered materials through dissemination of product information.
4. Contracting officers shall include the following solicitation provisions and contract clauses as prescribed in FAR 23.405:

FAR 52.223-4; "Recovered Materials Certification".

FAR 52.223-8 "Estimate of Percentage of Recovered Material for Designated Items to be Used in the Performance of the Contract".

FAR 52.223-9 "Certification of Percentage of Recovered Material
Content for EPA Designated Items Used in Performance
of the Contract".

FAR 52.223-10 "Waste Reduction Program".

5. Contracts that provide for contractor operation of a government-owned or leased facilities shall include the applicable provisions and clauses in paragraph 4 above.
6. For FY 1995, OFPP exempted the Department of the Interior from the annual report requirement under RCRA. In spite of this exemption, all bureaus and offices should continue responsible practices to acquire items made with recovered materials that will help conserve energy, water, and other material resources.