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Environmental Fact Sheet

EPA Issues Comprehensive Procurement Guideline

As part of its continuing program to promote the use of recovered materials, the Environmental Protection Agency (EPA) issued the "Comprehensive Guideline for Procurement of Products Containing Recovered Materials" (CPG) (60 *FR* 21370) and its companion piece, the "Recovered Materials Advisory Notice" (RMAN) (60 *FR* 21386), on May 1, 1995. The CPG designates 24 recycled-content products in seven product categories for which government procuring agencies need to develop affirmative procurement programs. The RMAN provides recommendations for purchasing the products designated in the CPG. Through use of these guidelines, the federal government hopes to expand its use of products with recovered materials, and to help develop markets for them in other sectors of the economy.

Categories and Designated Items

- Paper and Paper Products*
- Vehicular Products
  - Engine Coolants
  - Re-refined Lubricating Oils*
  - Retread Tires*
- Construction Products
  - Structural Fiberboard
  - Laminated Paperboard
  - Carpet
  - Floor Tiles
  - Patio Blocks
  - Building Insulation Products*
  - Cement and Concrete Containing
    - Coal Fly Ash*
    - Ground Granulated Blast Furnace Slag
- Transportation Products
  - Traffic Cones
  - Traffic Barricades
- Park and Recreation Products
  - Playground Surfaces
  - Running Tracks
- Landscaping Products
  - Hydraulic Mulch
  - Yard Trimmings Compost
- Non-paper Office Products
  - Office Recycling Containers
  - Office Waste Receptacles
  - Plastic Desktop Accessories
  - Toner Cartridges
  - Binders
  - Plastic Trash Bags

*Consolidated from previously issued guidelines.

Background

In Section 6002 of the Resource Conservation and Recovery Act (RCRA), Congress directed government agencies to promote recycling by increasing their purchases of products containing recovered materials. RCRA requires EPA to designate products that can be made with recovered materials and to recommend practices for buying these products. Once a product is designated, procuring agencies are required to purchase it with the highest recovered material content level practicable. By 1989, EPA had designated five products or product categories: cement and concrete containing coal fly ash; paper and paper products; re-refined lubricating oils; retread tires; and building insulation products.

President Clinton further addressed the need to develop markets for recovered materials when he signed Executive Order 12873 on October 20, 1993. The Executive Order calls for an expedited process to increase the federal government's use of recycled-content products, including the publication of a Comprehensive Procurement Guideline and a Recovered Materials Advisory Notice. The CPG designates products that government agencies must buy containing recovered materials, while the RMAN recommends procurement practices, including levels of recovered materials that should be in those products, where appropriate. EPA used this process to issue the CPG, which designates 19 new products and combines them with the five existing product designations. The CPG will be codified in a new Part 247 in Title 40 of the Code of Federal Regulations.

To Whom Does the CPG Apply?

Under RCRA, the requirement to purchase an EPA-designated product containing recovered materials applies to procuring agencies that spend more than $10,000 a year on that item. What is a "procuring agency"? It is any federal, state or local agency using appropriated federal funds, or government contractor. For example, if a county agency spends more than $10,000 a year on carpet, and part of that money is from appropriated federal funds, then the agency must purchase carpet made from recovered materials. The buy-recycled requirement does not include purchases that are unrelated or incidental to the purpose of federal funding, however.

What Is an Affirmative Procurement Program?

A key to the success of the Comprehensive Procurement Guideline and the effort to expand the use of recovered materials is the development of affirmative procurement programs. As described in RCRA section 6002 and Executive Order 12873, an affirmative procurement program is an agency's strategy for maximizing its purchases of products designated by EPA.

Within one year after EPA designates a product, RCRA Section 6002 specifies that procuring agencies must establish an affirmative procurement program for that item. In addition, federal agencies must revise their specifications to require the use of recovered materials to the maximum extent possible without jeopardizing the intended end-use of the product. EPA recommends that each procuring agency develop one overall affirmative procurement program that identifies which designated products that agency purchases and provides for the incorporation of new products that are designated by EPA in the future.

RCRA requires that an affirmative procurement program consist of four components:

- a recovered materials preference program;
- an agency promotion program;
- a program for requiring vendors to estimate and certify the recovered materials content of their product and for reasonably verifying the estimates and certifications; and
- a program to monitor and annually review the effectiveness of the affirmative procurement program.

Preference Program

A preference program is the system by which a procuring agency implements its stated "preference" for purchasing products containing recovered materials. The statute provides the following three options for a preference program:

Minimum Content Standards. For each designated product, a procuring agency must establish its own standards for the minimum recovered materials content of that product. EPA's recommendations for these content levels are found in the Recovered Materials Advisory Notice.

Case-by-case Policy Development. When a procuring agency determines that its minimum content standard is inappropriate for a specific procurement action, it should pursue a case-by-case approach to purchasing the designated product with the highest amount of recovered materials practicable. This option allows the procuring agency to establish a separate recovered materials content requirement for the specific procurement action, while still enabling the agency to procure the designated product with the highest amount of recovered materials practicable.

Substantially Equivalent Alternative. When minimum content standards are inappropriate, a procuring agency should pursue alternative approaches, such as establishing a service contract for remanufacturing or reconditioning the designated product.

Promotion Program

Active promotion of "buying recycled" is another important part of a successful affirmative

procurement program. Procuring agencies are required to actively promote their desire to buy recycled products. EPA recommends that agencies promote their affirmative procurement programs both within the agency and externally to product vendors. Internal promotion may consist of initiatives such as wide distribution of copies of an agency's affirmative procurement policy, articles in agency newsletters, and workshops to educate employees. Examples of external promotion are publishing articles in trade journals, participating in vendor shows and trade fairs, placing statements in solicitations, and discussing an agency's affirmative procurement program at bidders' conferences.

Estimation, Certification and Verification Program

Procuring agencies must also establish procedures for obtaining estimates and certifications, and, where appropriate, reasonably verifying the amount of recovered materials content utilized in the performance of a contract.

Procedures to Monitor and Review the Procurement Program

Agencies also must monitor their affirmative procurement programs to ensure that they are fulfilling their requirements to purchase items composed of recovered materials. In addition, Executive Order 12873 requires the Environmental Executive of each federal agency to track and report on agency purchases of designated items.

When May an Agency Purchase Items That Do Not Contain Recovered Materials?

Procuring agencies may choose not to purchase a guideline item containing recovered materials if: the item's price is unreasonable; there is inadequate competition; unusual and unreasonable delays result from obtaining the designated item; or the item does not meet the agency's reasonable performance specifications.

For More Information

The *Federal Register* notices and this Fact Sheet are available in electronic format through EPA's Public Access Server at **gopher.epa.gov**. For the text of the *FR* notices, choose: *Rules, Regulations, and Legislation*, then, *Waste Programs/EPA Waste Information-GPO*; finally, *Year/Month/Date*. This Fact Sheet and the Supporting Analyses documents for these actions are available under: *EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste/Nonhazardous Waste/Procurement/General.*

For additional information on these notices, please call the RCRA hotline at 1-800-424-9346 or TDD 1-800-553-7672 (hearing impaired).