

**Recycling, Waste Prevention and Acquisition  
Benefit the National Environment**

Office of the Secretary of Defense  
Under Secretary of Defense (Acquisition and Technology)

July 1995

## FOREWORD

*Families, businesses, and communities all across America know that recycling makes sense. It saves money and it protects the environment. It's time for the Government to set an example and provide real leadership that will help create jobs and protect the environment, encouraging new markets for recycled products and new technologies.*

President William J. Clinton  
October 20, 1993  
Statement on Signing the  
Executive Order on Federal Acquisition,  
Recycling and Waste Prevention

On October 20, 1993, President Clinton signed Executive Order 12873 into law. Executive Order 12873, entitled "Federal Acquisition, Recycling, and Waste Prevention," establishes two main goals for federal agencies: (1) Goal for Waste Reduction: Each agency shall establish a goal for solid waste prevention and a goal for recycling to be achieved by the year 1995, and (2) Goal for Increasing the Procurement of Recycled and Other Environmentally Preferable Products. Each agency shall strive to increase the procurement of products that are environmentally preferable or that are made with recovered materials and set annual goals to maximize the number of recycled products purchased, relative to non-recycled alternatives.

This brochure has been prepared to provide guidance on implementing the Department of Defense (DoD) Affirmative Procurement Program (APP) throughout the Department. The APP is part of the DoD environmental preference program established to meet DoD obligations under Executive Order 12873's Goal for Increasing the Procurement of Recycled and Other Environmentally Preferable Products and under the Resource Conservation and Recovery Act.

This brochure was prepared by the Office of the Under Secretary of Defense (Acquisition and Technology) in cooperation with the National Defense Center for Environmental Excellence which is operated by Concurrent Technologies Corporation (CTC).

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# THE AFFIRMATIVE PROCUREMENT PROGRAM

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## **Introduction**

The Department of Defense environmental preference program is essential for the conservation of resources and the improvement of the national environment. The Department's overarching thrust is to reduce the amount of waste generated in its necessary operations, to recycle as large a portion of unavoidably created waste as is feasible, and then to stimulate demand for this "raw material" by being a large and active purchaser of quality products made with recycled content. The affirmative procurement program (APP), a part of DoD's environmental preference program, is required by the Resource Conservation and Recovery Act and Executive Order 12873 and is more narrowly focused to deal only with the Environmental Protection Agency-designated items for which recycled content standards have been established. The Department requires the procurement of these guideline items in its operations and actively encourages the use of other items made with recycled content when they satisfy mission requirements.

The overall recycling program was established in 1983; further impetus and wider scope was given to environmental activities by the passage of the Hazardous and Solid Waste Amendments of 1984, which required procurement preference for certain items with recycled content. The promulgation of Executive Order 12873 on October 20, 1993, further highlighted the need to actively pursue affirmative procurement of EPA-designated items and led to the current formalization of the Defense APP program.

***The U.S. Government is the nation's largest consumer of goods and services. Procurement by the Department of Defense alone accounts for 2 to 3 percent of total GNP. (Pollution Prevention in the Federal Government: Guide for Developing Pollution Prevention Strategies for Executive Order 12856 and Beyond U.S. EPA, April 1994)***

The Resource Conservation and Recovery Act required the Environmental Protection Agency to develop guidelines specifying standards of recycled content for certain items. EPA's "guideline items" thus form the basis on which the Department has developed the affirmative procurement program and also provide the basis on which progress in attaining program goals is measured.

The Under Secretary of Defense (Acquisition and Technology) established Department of Defense preference policy on Environmental Protection Agency guideline items in his memorandum dated August 24, 1994. This brochure incorporates the policy in that memorandum and provides additional detail and guidance on implementing the policy throughout the Department.

***The head of each Executive agency shall develop and implement affirmative procurement programs in accordance with RCRA section 6002 (42 U.S.C. 6962) and this order. (Section 402, Executive Order 12873)***

The purpose of the Department's affirmative procurement program is to conserve resources, encourage markets for recycled materials and to encourage manufacturers to produce quality recycled content

products. We will do this by maximizing our purchases of recycled content products designated for special attention by the Environmental Protection Agency.

The Department of Defense policy on procurement of EPA-designated items is that 100% of such purchases will meet or exceed the guideline standards unless written justification is made part of the procurement file citing at least one of the following conditions:

- the product is not available competitively within a reasonable timeframe;
- the product does not meet appropriate performance standards; or
- the product is only available at an unreasonable price.

Executive Order 12873 required the designation of a Defense Environmental Executive and the Deputy Under Secretary of Defense (Environmental Security) has been appointed to that important post. That office is responsible for:

- coordinating all environmental programs in the areas of procurement and acquisition, standards and specification review, facilities management, waste prevention and recycling, and logistics;
- participating in the interagency development of a Federal plan to:
  - (1) create an awareness and outreach program for the private sector to facilitate markets for environmentally preferable and recycled products and services, promote new technologies, improve awareness about Federal efforts in this area, and expedite Defense efforts to procure new products identified under the Order;
  - (2) establish incentives, provide guidance and coordinate appropriate educational programs for Defense employees; and
  - (3) coordinate the development of standard Defense reports required by the Order.

***This Administration is determined to strengthen the role of the Federal Government as an enlightened, environmentally conscious and concerned consumer. (Introduction to Executive Order 12873)***

- reviewing Defense programs and acquisitions to ensure compliance with the Order.

### **Applicability**

This guidance is applicable to all Department of Defense employees, military and civilian, and has especial relevance to those echelons generating requirements for goods and services and to purchasing activities. Ultimate success in improving the environment requires each Defense member to "think green" in all their actions. The Department's waste prevention, recycling, and affirmative procurement programs thus apply to every CONUS installation and every employee on those installations. Outside CONUS, the more stringent of local requirements or CONUS requirements apply.



## **The Affirmative Procurement Program**

The Department of Defense affirmative procurement program encompasses the Environmental Protection Agency items designated in accordance with Section 6002(e) of the Resource Conservation and Recovery Act. The program, as it relates to the guideline items, consists of a procurement preference element; a promotion element; an element covering procedures for evaluation, certification, and verification; and procedures for annual review and reporting. The program applies to currently designated items, but is structured to incorporate additional items as they are approved by EPA.

***Agencies shall establish affirmative procurement programs for all designated EPA guideline items purchased by their agency. For newly designated items, agencies shall revise their internal programs within one year from the date EPA designated the new items. (Section 402(a), Executive Order 12873)***

### **Preference**

The policy on the "preference" element of the program was promulgated in Under Secretary of Defense (Acquisition and Technology) memorandum of August 24, 1994 (Appendix A). Briefly stated, the policy is that 100% of Defense purchases of guideline items must meet or exceed the guideline standards unless very narrowly drawn conditions are met. This policy is implemented in the Federal Acquisition Regulation which makes such procurements mandatory in the absence of the narrowly drawn conditions.

***For the currently designated EPA guideline items ... agencies shall ensure that their affirmative procurement programs require that 100 percent of their purchases of products meet or exceed the EPA guideline standards ...(Section 402(b), Executive Order 12873)***

In their purchases of guideline items, Defense components should consider established Federal supply sources as a competitive source to fill their requirements. These established sources include the General Services Administration, the supply centers operated by the Defense Logistics Agency and the Government Printing Office. Products obtained from these sources will meet or exceed minimum content standards set by EPA and, for paper and paper products obtained from CSA, will reduce component reporting burden. GSA and certain of the DLA supply centers also publish "green" or environmentally preferable catalogues which help in the selection of environmentally preferable products not on the designated list. This provides an opportunity for DoD components to increase the scope of their recycled content purchases and support the broader goal of Defense environmental preference.

***See Appendix C for a listing of the current EPA-designated items.***

### **Acquisition Planning**

Environmental and affirmative procurement program elements are also required to be a part of acquisition planning. Planners, program managers and acquisition managers must all take an active part



in the process. This will enhance waste prevention efforts, assure that waste generated can be recycled if possible and that ultimate disposal is considered. Plans, work statements, specifications and other product descriptions will consider as a minimum the following factors:

- elimination of virgin material requirements;
- use of recovered materials;
- reuse of product;
- life-cycle cost;
- recyclability;
- use of environmentally preferable products;
- waste prevention (including toxicity reduction or elimination); and
- ultimate disposal

### **Promotion**

The "promotion" of the recycling and affirmative procurement program is part of the mission of the Defense Environmental Executive and the Defense components. Promotion consists of: supporting and encouraging the Department's extensive recycling efforts where materials are recovered and returned to productive use; making manufacturers and suppliers aware of the Department's need for recycled content products; supporting the program before Congressional committees and State and local governing bodies; and educating employees throughout the Department on the benefits of recycling and of procuring and using products made with recycled content. The Defense Environmental Executive and Defense components will internally and externally promote the desire to buy recycled content products through:

- educational efforts at the annual Joint Services Recycling Workshop (a gathering of Defense recycling coordinators from all across the country);
- including explicit recovered materials preference standards for EPA-designated items in appropriate solicitations for bids, statements of work and contract negotiations;
- providing promotional materials regarding the Department's recovered materials preference program in newsletters and other internal documents and at appropriate meetings and conferences; and
- providing information through such electronic means as the Defense Environmental Network and Information Exchange (DENIX).

***The use of recycled and environmentally preferable products and services by the Federal Government can spur private sector development of new technologies and use of such products, thereby creating business and employment opportunities and enhancing regional and local economies and the national economy. (Introduction to Executive Order 12873)***

### **Evaluation, Certification, and Verification**

The "vendor certification" element becomes a part of the contract requirement for guideline items under the affirmative procurement program. Contractors are required to estimate the dollar amount of recovered content when bidding on specified contracts; they are subsequently required to certify the amount of recycled content actually used in fulfilling the contract. For EPA-designated items obtained through established Federal supply sources such as GSA and DLA, other Defense components are not required to perform verification sampling since those organizations will take care of the validity check requirement.

### **Annual Review and Report**

The "annual review and report" is a joint responsibility of the Defense Environmental Executive and the Defense components. The review and report will be carried out individually by the Defense components, with results reported to the Defense Environmental Executive. The primary method for capturing data required for reporting on guideline items under the affirmative procurement program will be the Defense Environmental Security Corporate Information Management system (DESCIM). That system, which is currently being developed, will have defined data elements for EPA-designated items. Pending full development and implementation, the Solid Waste Annual Reporting System (SWARS) has been selected as the DoD-wide "transition system" with implementation scheduled for October 1996. The SWARS contains reporting requirements for the current EPA guideline items, and definitions for additional items will be added as they are approved. The information the system will report is total dollar value of item procured and dollar value of material purchased with recycled content. Pending operation of these systems, the DoD components are responsible for capturing data reported by contractors on recycled content purchases in a manner suitable to their individual management structures. The information is required to be summarized and provided annually to the Defense Environmental Executive following the reporting format in the annual reporting call memorandum.

### **Awards**

The Department has a widely respected and very competitive annual Environmental Awards Program. Recycling is one of the categories of award in the program now; it is our intent to emphasize this aspect in future awards programs. Winners in this competition are eligible to participate in other Federal awards programs, including government-wide competitions sponsored by the White House.

*A government-wide award will be presented annually by the White House ... [and] ... Each agency shall develop an internal agency-wide awards program, as appropriate, to reward its most innovative environmental programs. (Sections 801 & 802 Executive Order 12873)*

### **Model Facilities Program**

The Department has identified model facilities under its Model Facility Program. These installations have comprehensive waste prevention and recycling programs, electronic systems for the procurement and tracking of recycled content products, and demonstrate environmental leadership in other areas. These

model facilities will be prime competitors in the Environmental Awards Program, and will focus attention on installation accomplishments in environmental improvement.

***Each Executive department and major procuring agency shall establish model facility demonstration programs... (Section 704, Executive Order 12873)***

### **Environmentally Preferable Products and Services**

Section 503 of Executive Order 12873 requires the Environmental Protection Agency to issue guidance recommending principles for Executive Agency use in making determinations for the preference and purchase of environmentally preferable products and services. "Environmentally preferable" is defined as having a lesser effect on human health and the environment when compared with competing products or services serving the same purpose. Comparisons made in determining environmental preferability may include things such as materials acquisition, production, manufacturing, packaging, distribution, reuse, operation and maintenance, and disposal.

The Department of Defense has been working with the EPA in developing the required guidance. It is expected to take the form of general principles and more narrowly-focused experience-based guidance developed from lessons learned from a series of pilot acquisition projects. No matter the specific form this guidance may ultimately take, the DoD supports incorporating environmental factors as early as is feasible in the planning and acquisition process. Life-cycle costs are also an important factor in drawing environmentally preferable comparisons.

To assure that both environmental factors and life-cycle costs receive appropriate consideration, the Department is revising its acquisition regulations (notably DoDD 5000.1 and DoDI 5000.2) to highlight this requirement. Since unique DoD specifications and standards have, in the past, sometimes served as an obstacle to using environmentally preferable products, we are revising this guidance to specify that such products will be used wherever possible without jeopardizing the use of the item. We are also moving toward greatly increased use of performance standards, and this shift will bring us into line with the current "best practices" of the private sector and should increase our use of environmentally preferable products.

The Department thus fully supports the environmentally preferable ethic, and pledges to strive to increase the proportion of these goods and services in its total acquisition mix. Defense components will look at all their requirements, and constantly seek to increase the EPP participation rate when consistent with mission and life-cycle cost considerations.

***Where applicable, Executive agencies shall review and revise federal and military specifications, product descriptions and standards to enhance Federal procurement of products made from recovered materials or that are environmentally preferable. (Section 501, Executive Order 12873)***

### **Waste Prevention**

The Department is actively pursuing waste prevention on all fronts. It has established a solid waste reduction goal of 50% by calendar-year 1999, using a 1992 calendar-year baseline; it encourages steps such as double-sided copying and requires that contracts, grants and cooperative agreements which result in printed deliverables be printed double-sided on recycled content paper. The Department is also well along in the process of developing and implementing an electronic commerce/electronic data interchange system which will materially reduce paper requirements in the procurement process. All of these steps are expected to prevent waste; pollution will also be prevented as the flow of materials to landfills is reduced.

***Agency affirmative procurement programs, to the maximum extent practicable, shall encourage that:***

- (1) documents be transferred electronically,***
- (2) all government documents printed internally be printed double-sided, and***
- (3) contracts, grants, and cooperative agreements ... be printed double-sided on recycled paper ...***

***(Section 402(d)(11)(2) & (3) Executive Order 12873)***

APPENDIX A

UNDER SECRETARY OF DEFENSE (ACQUISITION AND  
TECHNOLOGY) MEMORANDUM, DATED AUGUST 24, 1994,  
"PREFERENCE FOR ENVIRONMENTAL PROTECTION AGENCY (EPA)  
GUIDELINE ITEMS"

THE UNDER SECRETARY OF DEFENSE  
3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARY OF DEFENSE (POLICY)  
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING  
ASSISTANT SECRETARIES OF DEFENSE  
COMPTROLLER  
GENERAL COUNSEL  
INSPECTOR GENERAL  
DIRECTOR, OPERATIONAL TEST AND EVALUATION  
ASSISTANTS TO THE SECRETARY OF DEFENSE  
DIRECTOR, ADMINISTRATION AND MANAGEMENT  
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Preference for Environmental Protection Agency (EPA) Guideline Items

Aug 25 1994

Executive Order 12873 and Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962) require Federal agencies to establish preference programs for all designated EPA guideline items purchased. The currently designated EPA guideline items are: concrete and cement containing fly ash, recycled paper products, re-refined lubricating oil, retread tires, and insulation containing recovered materials.

To comply with the requirements of Executive Order 12873 and Section 6002 the Resource Conservation and Recovery Act as they pertain to these programs, it is Department of Defense policy to require that 100 percent of purchases of the designated items meet or exceed the EPA guideline standards.

The only exception to this preference in the purchase of guideline items requires a written justification that cites at least one of the following condition:

- the product is not available competitively within a reasonable time frame;
- the product does not meet appropriate performance standards; or
- the product is only available at an unreasonable price.

The Department of Defense strongly supports the use of quality products made with recycled contents. Our presence in the market as a large and active consumer will provide economic incentive for both recyclers and manufacturers and will help institutionalize the recycling ethic in American business. This will make an important difference in the Department's efforts to increase our national environmental security.

Please communicate this preference policy on guideline items to both your requirements generating and your procuring activities.

R. Noel Longuemare  
Principal Deputy Under Secretary of  
Defense (Acquisition & Technology)

APPENDIX B

EXECUTIVE ORDER 12873, DATED OCTOBER 20, 1993, "FEDERAL  
ACQUISITION, RECYCLING AND WASTE PREVENTION"



Federal Register Presidential Documents

Vol. 58, No. 203

Friday, October 22, 1993

(\*Federal Register Pages 54911-54919)

Title 3--Executive Order 12873 of October 22, 1993

The President: Federal Acquisition, Recycling, and Waste Prevention

WHEREAS, the Nation's interest is served when the Federal Government can make more efficient use of natural resources by maximizing recycling and preventing waste wherever possible;

WHEREAS, this Administration is determined to strengthen the role of the Federal Government as an enlightened, environmentally conscious and concerned consumer;

WHEREAS, the Federal Government should -- through cost-effective waste prevention and recycling activities -- work to conserve disposal capacity, and serve as a model in this regard for private and other public institutions; and

WHEREAS, the use of recycled and environmentally preferable products and services by the Federal Government can spur private sector development of new technologies and use of such products, thereby creating business and employment opportunities and enhancing regional and local economies and the national economy;

NOW, THEREFORE, I, WILLIAM J. CLINTON, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Solid Waste Disposal Act, Public Law 89-272, 79 Stat. 997, as amended by the Resource Conservation and Recovery Act ("RCRA"), Public Law 94-580, 90 Stat. 2795 as amended (42 U.S.C. 6901-6907), and section 301 of title 3, United States Code, hereby order as follows:

PART I -- PREAMBLE

Section 101. Consistent with the demands of efficiency and cost effectiveness, the head of each Executive agency shall incorporate waste prevention and recycling in the agency's daily operations and work to increase and expand markets for recovered materials through greater Federal Government preference and demand for such products.

Sec. 102. Consistent with policies established by Office of Federal Procurement Policy ("OFPP") Policy Letter 92-4, agencies shall comply with executive branch policies for the acquisition and use of environmentally preferable products and services and implement cost-effective procurement preference programs favoring the purchase of these products and services.

Sec. 103. This order creates a Federal Environmental Executive and establishes high-level Environmental Executive positions within each agency to be responsible for expediting the implementation of this order and statutes that pertain to this order

## PART 2 -- DEFINITIONS

For purposes of this order:

Sec. 201. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service. (\* Page 54912)

Sec. 202. "Executive agency" or "agency" means an Executive agency as defined in 5 U.S.C. 105. For the purpose of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

Sec. 203. "Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. "Postconsumer material" is a part of the broader category of "recovered material".

Sec. 204. "Acquisition" means the acquiring by contract with appropriated funds for supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration and those technical and management functions directly related to the process of fulfilling agency needs by contract.

Sec. 205. "Recovered materials" means waste materials and by-products which have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (42 U.S.C. 6903 (19)).

Sec. 206. "Recyclability" means the ability of a product or material to be recovered from, or otherwise diverted from, the solid waste stream for the purpose of recycling.

Sec. 207. "Recycling" means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion.

Sec. 208. "Waste prevention," also known as "source reduction," means any change in the design, manufacturing, purchase or use of materials or products (including packaging) to reduce their amount or toxicity before they become municipal solid waste. Waste prevention also refers to the reuse of products or materials.

Sec. 209. "Waste reduction" means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

Sec. 210. "Life Cycle Cost" means the amortized annual cost of a product, including capital costs, installation costs, operating costs, maintenance costs and disposal costs discounted over the lifetime of the product.

Sec. 211. "Life Cycle Analysis" means the comprehensive examination of a product's environmental and economic effects throughout its lifetime including new material extraction, transportation, manufacturing, use, and disposal.

### PART 3 -- THE ROLE OF THE FEDERAL ENVIRONMENTAL EXECUTIVE AND AGENCY ENVIRONMENTAL EXECUTIVES

Sec. 301. Federal Environmental Executive. (a) A Federal Environmental Executive shall be designated by the President and shall be located within the Environmental Protection Agency ("EPA"). The Federal Environmental Executive shall take all actions necessary to ensure that the agencies comply with the requirements of this order and shall generate an annual report to the Office of Management and Budget ("OMB"), at the time of agency budget submissions, on the actions taken by the agencies to comply with the requirements of this order. In carrying out his or her functions, the (\* Page 54913) Federal Environmental Executive shall consult with the Director of the White House Office on Environmental Policy.

(b) Staffing. A minimum of four (4) full time staff persons are to be provided by the agencies listed below to assist the Federal Environmental Executive, one of whom shall have experience in specification review and program requirements, one of whom shall have experience in procurement practices, and one of whom shall have experience in solid waste prevention and recycling. These four staff persons shall be appointed and replaced as follows:

(1) a representative from the Department of Defense shall be detailed for not less than one year and no more than two years;

(2) a representative from the General Services Administration ("GSA") shall be detailed for not less than one year and no more than two years;

(3) a representative from EPA shall be detailed for not less than one year and no more than two years;  
and

(4) a representative from one other agency determined by the Federal Environmental Executive shall be detailed on a rotational basis for not more than one year.

(c) Administration. Agencies are requested to make their services, personnel and facilities available to the Federal Environmental Executive to the maximum extent practicable for the performance of functions under this order.

(d) Committees and Work Groups. The Federal Environmental Executive shall establish committees and work groups to identify, assess, and recommend actions to be taken to fulfill the goals, responsibilities, and initiatives of the Federal Environmental Executive. As these committees and work groups are created, agencies are requested to designate appropriate personnel in the areas of procurement and acquisition, standards and specifications, electronic commerce, facilities management, waste prevention, and recycling, and others as needed to staff and work on the initiatives of the Executive.

(e) Duties. The Federal Environmental Executive, in consultation with the Agency Environmental Executives, shall:

(1) identify and recommend initiatives for government-wide implementation that will promote the purposes of this order, including:

(A) the development of a federal plan for agency implementation of this order and appropriate incentives to encourage the acquisition of recycled and environmentally preferable products by the Federal Government;

(B) the development of a federal implementation plan and guidance for instituting economically efficient federal waste prevention, energy and water efficiency programs, and recycling programs within each agency; and

(C) the development of a plan for making maximum use of available funding assistance programs;

(2) collect and disseminate information electronically concerning methods to reduce waste, materials that can be recycled, costs and savings associated with waste prevention and recycling, and current market sources of products that are environmentally preferable or produced with recovered materials;

(3) provide guidance and assistance to the agencies in setting up and reporting on agency programs and monitoring their effectiveness; and

(4) coordinate appropriate government-wide education and training programs for agencies .

Sec. 302. Agency Environmental Executives. Within 90 days after the effective date of this order, the head of each Executive department and major procuring agency shall designate an Agency Environmental Executive from among his or her staff, who serves at a level no lower than at the Deputy

Assistant (\* Page 54914) Secretary level or equivalent. The Agency Environmental Executive will be responsible for:

(a) coordinating all environmental programs in the areas of procurement and acquisition, standards and specification review, facilities management, waste prevention and recycling, and logistics;

(b) participating in the interagency development of a Federal plan to:

(1) create an awareness and outreach program for the private sector to facilitate markets for environmentally preferable and recycled products and services, promote new technologies, improve awareness about federal efforts in this area, and expedite agency efforts to procure new products identified under this order;

(2) establish incentives, provide guidance and coordinate appropriate educational programs for agency employees; and

(3) coordinate the development of standard agency reports required by this order;

(c) reviewing agency programs and acquisitions to ensure compliance with this order.

#### PART 4 -- ACQUISITION PLANNING AND AFFIRMATIVE PROCUREMENT PROGRAMS

Sec. 401. Acquisition Planning. In developing plans, drawings, work statements, specifications, or other product descriptions, agencies shall consider the following factors: elimination of virgin material requirements; use of recovered materials; reuse of product; life cycle cost; recyclability; use of environmentally preferable products; waste prevention (including toxicity reduction or elimination); and ultimate disposal, as appropriate. These factors should be considered in acquisition planning for all procurements and in the evaluation and award of contracts, as appropriate. Program and acquisition managers should take an active role in these activities.

Sec. 402. Affirmative Procurement Programs. The head of each Executive agency shall develop and implement affirmative procurement programs in accordance with RCRA section 6002 (42 U.S.C. 6962) and this order. Agencies shall ensure that responsibilities for preparation, implementation and monitoring of affirmative procurement programs are shared between the program personnel and procurement personnel. For the purposes of all purchases made pursuant to this order, EPA, in consultation with such other Federal agencies as appropriate, shall endeavor to maximize environmental benefits, consistent with price, performance and availability considerations, and shall adjust bid solicitation guidelines as necessary in order to accomplish this goal.

(a) Agencies shall establish affirmative procurement programs for all designated EPA guideline items purchased by their agency. For newly designated items, agencies shall revise their internal programs within one year from the date EPA designated the new items.

(b) For the currently designated EPA guideline items, which are: (i) concrete and cement containing fly ash; (ii) recycled paper products; (iii) re-refined lubricating oil; (iv) retread tires; and (v) insulation containing recovered materials; and for all future guideline items, agencies shall ensure that their affirmative procurement programs require that 100 percent of their purchases of products meet or exceed the EPA guideline standards unless written justification is provided that a product is not available competitively within a reasonable time frame, does not meet appropriate performance standards, or is only available at an unreasonable price.

(c) The Agency Environmental Executives will track agencies' purchases of designated EPA guideline items and report agencies' purchases of such guideline items to the Federal Environmental Executive. Agency Environmental Executives will be required to justify to the Federal Environmental Executive as to why the item(s) have not been purchased or submit a

(\* Page 54915) plan for how the agencies intend to increase their purchases of the designated item(s).

(d) Agency affirmative procurement programs, to the maximum extent practicable, shall encourage that:

(1) documents be transferred electronically,

(2) all government documents printed internally be printed double-sided, and

(3) contracts, grants, and cooperative agreements issued after the effective date of this order include provisions that require documents to be printed double-sided on recycled paper meeting or exceeding the standards established in this order or in future EPA guidelines.

Sec. 403. Procurement of Existing Guideline Items. Within 90 days after the effective date of this order, the head of each Executive agency that has not implemented an affirmative procurement program shall ensure that the affirmative procurement program has been established and is being implemented to the maximum extent practicable.

Sec. 404. Electronic Acquisition System. To reduce waste by eliminating unnecessary paper transactions in the acquisition process and to foster accurate data collection and reporting of agencies' purchases of recycled content and environmentally preferred products, the executive branch will implement an electronic commerce system consistent with the recommendations adopted as a result of the National Performance Review.

## PART 5 -- STANDARDS, SPECIFICATIONS AND DESIGNATION OF ITEMS

Sec. 501. Specifications, Product Descriptions and Standards. Where applicable, Executive agencies shall review and revise federal and military specifications, product descriptions and standards to enhance Federal procurement of products made from recovered materials or that are environmentally preferable. When converting to a Commercial Item Description (CID), agencies shall ensure that environmental factors have been considered and that the CID meets or exceeds the environmentally preferable criteria of the government specification or product description. Agencies shall report annually

on their compliance with this section to the Federal Environmental Executive for incorporation into the annual report to OMB referred to in section 301 of this order.

(a) If an inconsistency with RCRA Section 6002 or this order is identified in a specification, standard, or product description, the Federal Environmental Executive shall request that the Environmental Executive of the pertinent agency advise the Federal Environmental Executive as to why the specification cannot be revised or submit a plan for revising it within 60 days.

(b) If an agency is able to revise an inconsistent specification but cannot do so within 60 days, it is the responsibility of that agency's Environmental Executive to monitor and implement the plan for revising it.

Sec. 502. Designation of Items that Contain Recovered Materials. In order to expedite the process of designating items that are or can be made with recovered materials, EPA shall institute a new process for designating these items in accordance with RCRA section 6002(e) as follows. (a) EPA shall issue a Comprehensive Procurement Guideline containing designated items that are or can be made with recovered materials.

(1) The proposed guideline shall be published for public comment in the Federal Register within 180 days after the effective date of this order and shall be updated annually after publication for comment to include additional items.

(2) Once items containing recovered materials have been designated by EPA through the new process established pursuant to this section and in compliance with RCRA section 6002, agencies shall modify their (\* Page 54916) affirmative procurement programs to require that, to the maximum extent practicable, their purchases of products meet or exceed the EPA guideline standards unless written justification is provided that a product is not available competitively, not available within a reasonable time frame, does not meet appropriate performance standards, or is only available at an unreasonable price.

(b) Concurrent with the issuance of the Comprehensive Procurement Guideline required by section 502(a) of this order, EPA shall publish for public comment in the Federal Register Recovered Material Advisory Notice(s) that present the range of recovered material content levels within which the designated recycled items are currently available. These levels shall be updated periodically after publication for comment to reflect changes in market conditions.

Sec 503. Guidance for Environmental Preferable Products In accordance with this order, EPA shall issue guidance that recommends principles that Executive agencies should use in making determinations for the preference and purchase of environmentally preferable products.

(a) Proposed guidance shall be published for public comment in the Federal Register within 180 days after the effective date of this order, and may be updated after public comment, as necessary, thereafter. To the extent necessary, EPA may issue additional guidance for public comment on how the principles can be applied to specific product categories.

(b) Once final guidance for environmentally preferable products has been issued by EPA, Executive agencies shall use these principles, to the maximum extent practicable, in identifying and purchasing environmentally preferable products and shall modify their procurement programs by reviewing and revising specifications, solicitation procedures, and policies as appropriate.

Sec. 504. Minimum Content Standard for Printing and Writing Paper. Executive agency heads shall ensure that agencies shall meet or exceed the following minimum materials content standards when purchasing or causing the purchase of printing and writing paper:

(a) For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, and white woven envelopes, the minimum content standard shall be no less than 20 percent postconsumer materials beginning December 31, 1994. This minimum content standard shall be increased to 30 percent beginning on December 31, 1998.

(b) For other uncoated printing and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock, the minimum content standard shall be 50 percent recovered materials, including 20 percent postconsumer materials beginning on December 31, 1994. This standard shall be increased to 30 percent beginning on December 31, 1998.

(c) As an alternative to meeting the standards in sections 504(a) and (b), for all printing and writing papers, the minimum content standard shall be no less than 50 percent recovered materials that are a waste material byproduct of a finished product other than a paper or textile product which would otherwise be disposed of in a landfill, as determined by the State in which the facility is located

(1) The decision not to procure recycled content printing and writing paper meeting the standards specified in this section shall be based solely on a determination by the contracting officer that a satisfactory level of competition does not exist, that the items are not available within a reasonable time period, or that the available items fail to meet reasonable performance standards established by the agency or are only available at an unreasonable price.

(2) Each agency should implement waste prevention techniques, as specified in section 402(d) of this order, so that total annual expenditures for recycled content printing and writing paper do not exceed current annual budgets for paper products as measured by average annual expenditures, adjusted for inflation based on the Consumer Price Index or other suitable (\*Page 54917) indices. In determining a target budget for printing and writing paper, agencies may take into account such factors as employee increases or decreases, new agency or statutory initiatives, and episodic or unique requirements (e.g., census).

(3) Effective immediately, all agencies making solicitations for the purchase of printing and writing paper shall seek bids for paper with postconsumer material or recovered waste material as described in section 504(c).



Sec. 505. Revision of Brightness Specifications and Standards. The General Services Administration and other Federal agencies are directed to identify, evaluate and revise or eliminate any standards or specifications unrelated to performance that present barriers to the purchase of paper or paper products made by production processes that minimize emissions of harmful byproducts. This evaluation shall include a review of unnecessary brightness and stock clause provisions, such as lignin content and chemical pulp requirements. The GSA shall complete the review and revision of such specifications within six months after the effective date of this order, and shall consult closely with the Joint Committee on Printing during such process. The GSA shall also compile any information or market studies that may be necessary to accomplish the objectives of this provision.

Sec. 506. Procurement of Re-refined Lubricating Oil and Retread Tires. Within 180 days after the effective date of this order, agencies shall implement the EPA procurement guidelines for re-refined lubricating oil and retread tires.

(a) Commodity managers shall finalize revisions to specifications for re-refined oil and retread tires, and develop and issue specifications for tire retreading services, as commodity managers shall take affirmative steps to procure these items in accordance with RCRA section 6002.

(b) Once these items become available, fleet managers shall take affirmative steps to procure these items in accordance with RCRA section 6002.

Sec. 507. Product Testing. The Secretary of Commerce, through the National Institute of Standards and Technology ("NIST"), shall establish a program for testing the performance of products containing recovered materials or deemed to be environmentally preferable. NIST shall work with EPA, GSA and other public and private sector organizations that conduct appropriate life cycle analyses to gather information that will assist agencies in making selections of products and services that are environmentally preferable.

(a) NIST shall publish appropriate reports describing testing programs, their results, and recommendations for testing methods and related specifications for use by Executive agencies and other interested parties.

(b) NIST shall coordinate with other Executive and State agencies to avoid duplication with existing testing programs.

## PART 6 -- AGENCY GOALS AND REPORTING REQUIREMENTS

Sec. 601. Goals for Waste Reduction. Each agency shall establish a goal for solid waste prevention and a goal for recycling to be achieved by the year 1995. These goals shall be submitted to the Federal Environmental Executive within 180 days after the effective date of this order. Progress on attaining these goals shall be reported by the agencies to the Federal Environmental Executive for the annual report specified in section 301 of this order.

Sec. 602. Goal for Increasing the Procurement of Recycled and Other Environmentally Preferable Products. Agencies shall strive to increase the procurement of products that are environmentally preferable or that are made with recovered materials and set annual goals to maximize the number of recycled products purchased, relative to non-recycled alternatives. (\* Page 54918)

Sec. 603. Review of Implementation. The President's Council on Integrity and Efficiency ("PCIE") will request that the Inspectors General periodically review agencies' affirmative procurement programs and reporting procedures to ensure their compliance with this order.

## PART 7 -- APPLICABILITY AND OTHER REQUIREMENTS

Sec. 701. Contractor Operated Facilities. Contracts that provide for contractor operation of a government-owned or leased facility, awarded after the effective date of this order, shall include provisions that obligate the contractor to comply with the requirements of this order within the scope of its operations. In addition, to the extent permitted by law and where economically feasible, existing contracts should be modified.

Sec. 702. Real Property Acquisition and Management. Within 90 days after the effective date of this order, and to the extent permitted by law and where economically feasible, Executive agencies shall ensure compliance with the provisions of this order in the acquisition and management of federally owned and leased space. GSA and other Executive agencies shall also include environmental and recycling provisions in the acquisition of all leased space and in the construction of new federal buildings.

Sec. 703. Retention of Funds. Within 90 days after the effective date of this order, the Administrator of GSA shall develop a legislative proposal providing authority for Executive agencies to retain a share of the proceeds from the sale of materials recovered through recycling or waste prevention programs and specifying the eligibility requirements for the materials being recycled.

Sec. 704. Model Facility Programs. Each Executive department and major procuring agency shall establish model facility demonstration programs that include comprehensive waste prevention and recycling programs and emphasize the procurement of recycled and environmentally preferable products and services using an electronic data interchange (EDI) system.

Sec. 705. Recycling Programs. Each Executive agency that has not already done so shall initiate a program to promote cost effective waste prevention and recycling of reusable materials in all of its facilities. The recycling programs implemented pursuant to this section must be compatible with applicable State and local recycling requirements. Federal agencies shall also consider cooperative ventures with State and local governments to promote recycling and waste reduction in the community.

## PART 8 -- AWARENESS

Sec. 801. Agency Awards Program. A government-wide award will be presented annually by the White House to the best, most innovative program implementing the objectives of this order to give greater visibility to these efforts so that they can be incorporated government-wide.

Sec. 802. Internal Agency Awards Programs. Each agency shall develop an internal agency--wide awards program, as appropriate, to reward its most innovative environmental programs. Winners of agency--wide awards will be eligible for the White House award program.

## PART 9 -- REVOCATION, LIMITATION AND IMPLEMENTATION

Sec. 901. Executive Order No. 12780, dated October 31, 1991, is hereby revoked.

Sec. 902. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other person (\* Page 54919)

Sec. 903. The policies expressed in this order, including the requirements and elements for effective agency affirmative procurement programs, shall be implemented and incorporated in the Federal Acquisition Regulation (FAR) within 180 days after the effective date of this order. The implementation language shall consist of providing specific direction and guidance on agency programs for preference, promotion, estimation, certification, reviewing and monitoring.

Sec. 904. This order shall be effective immediately.

/s/ WILLIAM J. CLINTON  
THE WHITE HOUSE,  
October 20, 1993.

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APPENDIX C

EXTRACT FROM FEDERAL ACQUISITION REGULATION  
CASE 92-54: ENVIRONMENTALLY PREFERABLE PRODUCTS

EXTRACT FROM FEDERAL ACQUISITION REGULATION  
CASE 92-54:ENVIRONMENTALLY PREFERABLE PRODUCTS

FAR Case 92-54 was published as an "interim rule" on May 31, 1995; this means that its provisions are effective immediately. The interim rule amends the FAR to clearly reflect the Government's preference for the acquisition of environmentally-sound and energy-efficient products and services. It also reflects the requirement to establish an affirmative procurement program favoring items containing the maximum practicable content of recovered materials. It requires agencies purchasing EPA-designated items to meet minimum content standards for recycled content unless approval is granted by an official designated by the agency head. Contractors are required to report the percentage of recovered materials used in contract performance for designated items.

The changes apply to EPA-designated items, which means items which are or can be made with recovered materials and are listed by the EPA in a procurement guideline (40 CFR, chapter 1, subchapter I). Five items were designated in 1989 (paper and paper products, re-refined lubricating oil, retread tires, building insulation products, and cement and concrete containing coal fly ash) and EPA designated an additional 19 items (engine coolants, structural fiberboard, laminated paperboard, carpet, floor tile, patio blocks, cement and concrete containing ground granulated blast furnace slag, traffic cones, traffic barricades, playground surfaces, running tracks, hydraulic mulch, composted yard trimmings for use in landscaping, office recycling containers, office waste receptacles, plastic desktop accessories, toner cartridges, binders, and plastic trash bags) on May 1, 1995. The FAR case is structured to cover both currently designated items and additional items as promulgated by the EPA.