

section 6002(c)(1) (A) through (C) (i.e., competition, price, availability, and performance). The requirement applies when the purchase price of the item exceeds \$10,000 or when the total cost of such items, or of functionally equivalent items, purchased during the preceding fiscal year was \$10,000 or more.

Within one year after EPA designates an item, RCRA section 6002(d)(2) requires that Federal agencies revise their specifications to require the use of recovered materials to the maximum extent possible without jeopardizing the intended end-use of the item. Section 6002(d)(1) further requires Federal agencies responsible for drafting or reviewing specifications to review all of their product specifications to eliminate both provisions prohibiting the use of recovered materials and requirements specifying the exclusive use of virgin materials. This revision process should have been completed by May 8, 1986.

Once EPA designates an item, responsibility for complying with RCRA section 6002 rests with the procuring agencies. As noted, after the date specified in the designation, each procuring agency must procure designated items with the highest recovered materials content practicable.

After the effective date, contracting officers must require their vendors to certify that the recovered materials content of their product meets the required content level. Furthermore, for each item designated by EPA, RCRA section 6002(i) requires each procuring agency to develop an affirmative procurement program, which sets forth the agency's policies and procedures for implementing the requirements of RCRA section 6002. The program must assure that the agency purchases items composed of recovered materials to the maximum extent practicable and that these purchases are made consistent with applicable provisions of Federal procurement law. In accordance with RCRA section 6002(i), the affirmative procurement program must contain at least four elements:

- (1) A recovered materials preference program;
- (2) An agency promotion program;
- (3) A program for requiring vendors to reasonably estimate, certify, and verify the recovered materials content of their products; and
- (4) A program to monitor and annually review the effectiveness of the affirmative procurement program.

C. Executive Order 12873

Executive Order 12873, entitled "Federal Acquisition, Recycling, and Waste Prevention," was signed by

President Clinton on October 20, 1993. The Order establishes a new, two-part process for EPA to use when developing and issuing the procurement guidelines for products containing recovered materials. The first part, the Comprehensive Procurement Guideline, contains EPA's designations of items that are or can be made with recovered materials. Because this is an activity requiring rulemaking, the CPG was developed using formal notice-and-comment rulemaking procedures and will be codified in the Code of Federal Regulations. Today's final CPG was developed under the procedures established in the Executive Order.

The second part, the Recovered Materials Advisory Notice, provides recommendations to procuring agencies on purchasing the items designated in the CPG. The Executive Order directs EPA to publish the RMAN in the **Federal Register** for public comment. The RMAN for items designated in today's CPG appears in the notice section of today's **Federal Register**.

A detailed description of the Executive Order provisions was included in the preamble to the proposed CPG (59 FR 18858; April 20, 1994).

D. Other Requirements and Policies

There are several other policies and procedures that may affect the procurement of products containing recovered materials by Federal and other government agencies. For the convenience of the reader, in Appendix I of this preamble, EPA has briefly summarized requirements and policies set forth in the Federal Acquisition Regulation, OFPP Policy Letter 92-4, and OMB Circulars A-102, A-119, and A-131.

E. Existing Procurement Guidelines

Between 1983 and 1989, EPA issued five guidelines for the procurement of products containing recovered materials. The guidelines issued prior to today's effort are listed in the following table:

TABLE 1.—EPA GUIDELINES FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Guideline	40 CFR Part	Date (FR)
Cement and Concrete Containing Fly Ash.	249	January 28, 1983 (48 FR 4230).
Paper and Paper Products.	250	June 22, 1988 (53 FR 23546).

TABLE 1.—EPA GUIDELINES FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS—Continued

Guideline	40 CFR Part	Date (FR)
Re-Refined Lubricating Oils.	252	June 30, 1988 (53 FR 24699).
Retread Tires ...	253	November 17, 1988 (53 FR 46558).
Building Insulation.	248	February 17, 1989 (54 FR 7327).

F. Summary of Proposed Rule

On April 20, 1994, EPA proposed a Comprehensive Procurement Guideline that, when finalized, would designate 21 items that are or can be made with recovered materials. The items were arranged into product categories as shown below:

Vehicular Products

Reclaimed engine coolants

Construction Products

Structural fiberboard
Laminated paperboard
Plastic pipe and fittings
Geotextiles
Cement/concrete containing ground granulated blast furnace slag
Carpet
Floor tiles
Patio blocks

Transportation Products

Traffic barricades
Traffic cones

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
Remanufactured toner cartridges
Binders
Plastic Trash Bags

In addition to proposing to designate the 21 new items, EPA (1) identified items for potential future designation, depending on the receipt of additional information; (2) identified items deemed not appropriate for designation at this time; (3) announced the Agency's intention to establish a process for the public to suggest items that could be added to future updates to the CPG; and (4) requested comment on how EPA might be able to increase public