

Many Federal agencies have stated that the current OFPP format is overly burdensome and costly to complete. To address these concerns, the Office of the Federal Environmental Executive has formed a workgroup which includes representatives from OFPP and several Federal agencies to examine methods of streamlining the current reporting format. Based on information and data submitted by two Federal agencies, EPA estimates that if OFPP revised the current format to request data on purchases made at and above the small purchase threshold and only anecdotal information on small purchases and bankcard acquisitions, Federal recordkeeping and reporting costs could be reduced by 75 percent.

#### E. Product Cost

Another potential cost of today's action is the possible price differential between an item made with recovered materials and an equivalent item manufactured using virgin materials. As discussed in the proposed CPG (59 FR 18859), relative prices of recycled content products compared to prices of comparable virgin products vary. In many cases, recycled content products may be less expensive than their virgin counterparts. In other cases, virgin products may have lower prices than recycled content products. However, other factors can also affect the price of virgin products. For example, temporary fluctuations in the overall economy can create oversupplies of virgin products, leading to a decrease in prices for these items. Under RCRA section 6002(c), procuring agencies are not required to purchase a product containing recovered materials if it is only available at an unreasonable price. However, the decision to pay more or less for such a product is left to the procuring agency.

#### F. Regulatory Flexibility Analysis

The primary purpose of the Regulatory Flexibility Analysis is to identify if there is an adverse impact to small businesses that are directly regulated by the rule and to examine regulatory alternatives that fall within the scope of the statutory requirements that would reduce impacts to small businesses, small organizations, or small governmental jurisdictions subject to the regulation. The RCRA procurement requirements apply to procuring agencies that procure more than \$10,000 of a designated product. No exemption is included in the statute for small businesses. Therefore, EPA has decided that alternative regulatory approaches for small businesses are not appropriate for this rule.

With regard to possible impacts to small businesses, there may be both positive and negative impacts to individual businesses. EPA anticipates that this rule will provide additional opportunities for small recycling businesses to begin supplying recovered materials to manufacturers and products made from recovered materials to procuring agencies. In addition, other small businesses that do not directly contract with procuring agencies may be affected positively by the increased demand for recovered materials. These include small businesses involved in materials recovery programs and materials recycling. Municipalities that run recycling programs are also expected to benefit from the increased demand for certain recovered materials.

EPA is unable to determine the number of small businesses that may be adversely impacted by this rule. It is possible that if a small business that currently supplies products to a procuring agency uses virgin materials only, the CPG may reduce its ability to compete for future contracts. However, the CPG will not affect existing purchase orders, nor will it preclude businesses from adapting their product lines to meet new specification or solicitation requirements for products containing recovered materials. Thus, many small businesses that market to procuring agencies have the option to adapt their product lines to meet specifications.

#### VI. Supporting Information

In addition to the documents listed in the preamble to the proposed rule (59 FR 18885-18886; April 20, 1994), EPA relied on information contained in the following documents when developing today's final Comprehensive Procurement Guideline:

- “Comprehensive Procurement Guideline—Supporting Analyses,” April 1995.
- “Technical Background Document for the Comprehensive Procurement Guideline,” April 1995.
- “Final Summary of Responses to the Proposed Comprehensive Guideline for Procurement of Products Containing Recovered Materials,” prepared for EPA by Science Applications International Corporation, Inc., March 1995.
- “Report on Research in Response to Comments on the Comprehensive Procurement Guideline,” prepared for EPA by Science Applications International Corporation, Inc., February 1995.
- “Missing the (Steel) Mark: EPA Procurement Guidelines Fail to Recognize Steel,” Bill Heenan, *The Recycling Magnet*, Fall 1994, p. 2.
- Memoranda to the record and notes from ex parte communications with industry and other representatives.

#### Appendix I—Other Procedures and Policies Affecting Procurement of Products Containing Recovered Materials

##### A. Federal Acquisition Regulation

The Federal Acquisition Regulation (FAR) (48 CFR 1) is the primary regulation used by Executive agencies in their acquisition of supplies and services. Part 23 sets forth requirements and procedures for Federal agencies to use when procuring EPA-designated items.

##### B. OFPP Policy Letter 92-4

The White House Office of Federal Procurement Policy's Policy Letter 92-4, “Procurement of Environmentally-Sound and Energy-Efficient Products and Services” (57 FR 53362), establishes Executive branch policies for the acquisition and use of environmentally-sound, energy-efficient products and services. In addition to reiterating the requirements of RCRA section 6002, the Policy Letter requires Executive agencies to (1) identify and procure products and services that, all factors taken into consideration, are environmentally-sound and energy-efficient, and (2) employ life cycle cost analysis to assist in making product and service selections.

##### C. OMB Circular A-102

On October 14, 1994, the White House Office of Management and Budget published revisions to OMB Circular A-102, “Grants and Cooperative Agreements with State and Local Governments” (59 FR 52224). Paragraph 2(h) of the circular requires State and local government recipients of Federal assistance funding to comply with RCRA section 6002.

##### D. OMB Circular A-119

OMB Circular A-119, “Federal Participation in the Development and Use of Voluntary Standards” (54 FR 57645), sets forth policy for Executive agencies to follow in working with voluntary standards bodies and in adopting and using voluntary standards. Paragraph 7(a)(4) recommends that Federal agencies give preference to adopting and using standards that “foster materials, products, systems, or practices that are environmentally-sound and energy-efficient.”

##### E. OMB Circular A-131

OMB Circular A-131, “Value Engineering” (58 FR 31056), requires Executive agencies to use value engineering as a management tool to reduce program and acquisition costs. Paragraph 8(b) requires agencies to