



Department of Energy  
Washington, DC 20585  
October 26, 1998

RCRA Information Center (5305W)  
U.S. Environmental Protection Agency  
401 M. St., S.W.  
Washington, D.C. 20460

Docket Number F-98-CP3P-FFFFF

Dear Sir or Madam:

*Re: 63 FR 45558, "Comprehensive Guideline for Procurement of Products Containing Recovered Materials -- Proposed Rule"*

On August 26, 1998, the Environmental Protection Agency (EPA) published for review and comment a proposed amendment to the May 1, 1995 Comprehensive Procurement Guideline. As indicated in the proposed rule, comments are to be submitted to EPA by October 26, 1998.

The Comprehensive Procurement Guideline implements Section 6002(e) of the Resource Conservation and Recovery Act (RCRA) which requires EPA to designate items that are or can be made with recovered materials and to recommend practices to assist a procuring Federal agency in meeting its obligations with respect to designated items under RCRA Section 6002. With this proposed rule, EPA is designating 19 new items that are or can be made with recovered materials.

The Department of Energy (DOE) appreciates the opportunity to comment and provide input in response to this notice. The Department fully supports efforts to conserve resources by procuring products containing recovered materials and has aggressively instituted an Affirmative Procurement Program throughout the complex. However, DOE is concerned that, as the number of designated items increases, the administrative costs of this program will become increasingly burdensome. The enclosed comments, which include viewpoints and issues identified by DOE Field Organizations and Program Offices, address this concern and are introduced for EPA's consideration.

Sincerely,

Thomas T. Traceski  
Director, RCRA/CERCLA Division  
Office of Environmental Policy and Assistance

Enclosure

**UNITED STATES DEPARTMENT OF ENERGY  
COMMENTS ON COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF  
PRODUCTS CONTAINING RECOVERED MATERIALS  
(63 FR 45558; AUGUST 26, 1998)**

**GENERAL COMMENTS**

The Department of Energy (DOE) welcomes the opportunity to comment on this comprehensive guideline for procurement of products containing recovered materials. The Department has a long-standing commitment to pollution prevention and sees affirmative procurement as one means of reducing the amount of waste destined for landfills.

However, continuing designation of new items that are or can be made with recovered materials could present a problem for the Department's facilities in the future. As the list of designated items grows, so does the burden of tracking and reporting on the procurement of these items. One DOE site has developed a code for each material purchased. One alpha/numeric character position in the code is reserved for identifying those items designated by EPA. For example, code "A" would identify the material as "nylon carpet with backing containing recovered materials." Code "B" would identify the material as meeting that category, but the material was not purchased (i.e., nylon carpet with backing NOT containing recovered material). Both codes are needed to complete the annual Affirmative Procurement Report for the Department. With 29 existing items and the proposed designation of 19 additional items, 96 alpha/numeric characters will be required for correct codification and tracking. As EPA designates more items in the future, this facility will need to identify new methods to uniquely codify each item.

Indeed, as reporting requirements and data collection logistics continue to grow, there is the likelihood that the good will and the positive environmental message of Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling and Federal Acquisition*, will be misplaced. Collecting information at each DOE site for the purchase of every item in the Comprehensive Procurement Guideline made by each independent site organization appears to be an "end-of the pipe" approach that is very inefficient and costly. Just as pollution prevention uses "source reduction" to attack an environmental problem at the point of origin, the Department recommends that EPA and the Federal Environmental Executive use a similar approach. EPA could put basic controls in the Federal Acquisition Regulation (FAR) to channel federal purchasing toward products with recycled content. Federal agencies could then report progress in implementing the FAR language and on improvements to the procurement system itself, as opposed to attempting to capture every purchase made by the Federal government.

Executive Order 13101 contains a provision [Section 302(a)(5)] to 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. An initial group is to be established to develop recommendations for tracking and reporting requirements, taking into account the costs and benefits of such tracking and reporting. The Department intends to be an active participant in this group to resolve some of the issues discussed.

## **SPECIFIC COMMENTS**

### **SECTION IV. CONSTRUCTION PRODUCTS.**

#### **1. A. NYLON CARPET WITH BACKING CONTAINING RECOVERED MATERIALS [63 FR 45561]**

**EPA is proposing the designation of nylon carpet (broadloom and tiles) made with backing containing recovered materials. EPA believes that nylon carpet tiles and broadloom carpet made with backing containing recovered materials meet the criteria for selecting items for designation. This decision is based on research where EPA located “a carpet manufacturer” which has developed a process to use material from old carpet to produce new backing containing recovered materials that are commercially available at a competitive price.**

**In Section 1, Background, EPA states, “When EPA proposed to designate carpet in the 1994 CPG I, the Agency had identified only one manufacturer using recovered materials to make carpet backing... . EPA stated that it was not considering carpet backing for designation because only one manufacturer had been identified.” Why this rationale is no longer valid needs to be explained.**

**In Section 2.b, Rationale for Designation, EPA states that "One manufacturer has developed the technology to use recovered carpet to manufacture new PVC carpet backing, and at least two other manufacturers are experimenting with using recovered materials in vinyl backing.” If the product is only in the experimental stage with the other manufacturers, the potential for the manufacturer not to make the product available should be a realistic consideration. Furthermore, EPA does not provide any information stating that the carpet has been tested for any significant amount of time. It would appear that requiring the use of a product available from only one manufacturer is a potential violation of the anti-trust regulations.**

**For these reasons, the Department recommends that EPA not designate this item until other manufacturers have produced and marketed a viable product. Testing data should also be made available to Federal agencies..**

#### **2. B. CARPET CUSHION [63 FR 45562]**

**EPA is proposing the designation of carpet cushion containing recovered materials be incorporated into each federal agency’s Affirmative Procurement Program. Information obtained by EPA "demonstrates that bonded polyurethane foam carpet cushion, carpet cushion made from jute and synthetic fibers, and rubber carpet cushion containing recovered materials are commercially available." At least 12 manufacturers currently market these items containing recovered materials.**

**The Department supports the designation of carpet cushion. One DOE site, the Pantex Plant, has recycled polyurethane from excess shipping containers and sold it to a local manufacturer who incorporated the polyurethane into their carpet cushion manufacturing**

process.

## **VIII. MISCELLANEOUS PRODUCTS**

### **3. A. SORBENTS [63 FR 45568]**

**EPA is proposing the designation of sorbents containing recovered materials for use in oil and solvent clean-ups and as animal bedding.**

**The type of materials used to manufacture sorbents is an important consideration when choosing a sorbent product. In a spill, the material must be compatible so that no adverse reactions are initiated through the clean-up process. Additionally, there is not a “single” sorbent that can absorb or adsorb every spill that occurs. Therefore, an agency will likely purchase several types of sorbents for various uses. While an agency may not be able to find a sorbent containing recovered materials for every potential spill, this would not preclude an agency from procuring sorbents containing recovered materials. Thus, the Department supports the designation of sorbents containing recovered materials when such materials meet the agency's needs.**

### **4. C. AWARDS AND PLAQUES [63 FR 45571]**

**EPA proposes the designation of awards and plaques containing recovered glass, wood, paper, or plastic.**

**The Department of Energy supports the designation of awards and plaques containing recovered materials. In fact, one DOE site, the Pantex Plant, has led an effort within DOE to reuse excess, unclassified, non-hazardous, non-radioactive nuclear weapons components as “DOE National Pollution Prevention Awards.”**

### **5. D. MATS [63 FR 45571]**

**EPA proposes the designation of mats containing recovered rubber and/or plastics.**

**The Department currently uses mats containing recovered materials and we support the designation of mats containing recovered rubber and/or plastic. The Department recommends that EPA add a requirement that all mats containing steel or metal linkages contain recovered materials as well. Additionally, the Department recommends that EPA include mats manufactured from scrap tires in this designation.**