



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
PROCUREMENT POLICY

January 16, 2009

The Honorable Joseph Lieberman  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

The enclosed report discusses the implementation of section 6002 of the Resource Conservation and Recovery Act (RCRA), Public Law 94-580, and section 9002 of the Farm Security and Rural Investment Act (FSRIA), for fiscal years 2004 through 2007. These laws require the Office of Federal Procurement Policy (OFPP) to report to Congress biennially on federal agencies' compliance with buy-recycled and buy-biobased requirements. This report was prepared jointly by OFPP and the Office of the Federal Environmental Executive (OFEE).

Over the past several years, the Administration has taken a number of key steps to strengthen green purchasing and reinforce the requirements of RCRA and FSRIA. These steps include the issuance of Executive Order 13423 by President Bush and Instructions for Implementation by the Council on Environmental Quality in consultation with the Office of Management and Budget (OMB) to strengthen federal environmental, energy and transportation management, including the sustainable acquisition practices mandated by RCRA and FSRIA. Equally important, OMB has strengthened program monitoring to track agencies' environmental stewardship practices and progress toward full compliance for procurement preference programs.

We appreciate the opportunity to describe the Executive Branch's significant initiatives to implement the acquisition provisions of RCRA and FSRIA. We believe these steps provide an important foundation for continued progress in strengthening agencies' green purchasing practices.

Sincerely,

for Lesley A. Field  
Deputy Administrator

Enclosure

Identical Letter Sent to:

The Honorable Joseph Lieberman

The Honorable Susan Collins

The Honorable Edolphus Towns

The Honorable Darrell Issa

The Honorable Barbara Boxer

The Honorable James M. Inhofe

The Honorable Henry A. Waxman

The Honorable Joe Barton

The Honorable Carl Levin

The Honorable Tom Harkin

The Honorable Saxby Chambliss

The Honorable Collin C. Peterson

The Honorable Frank Lucas

**Office of Federal Procurement Policy**  
**Report on Agency Implementation of Buy-Recycled and Buy-Biobased**  
**Requirements in the Resource Conservation and Recovery Act**  
**and the Farm Security and Rural Investment Act**

**Executive Summary**

This report overviews the significant actions taken by the Executive Branch during fiscal years 2004 to 2007 to implement section 6002 of the Resource Conservation and Recovery Act (RCRA) and Section 9002 of the Farm Security and Rural Investment Act (FSRIA). These laws establish the buy-recycled and buy-biobased components of the federal green purchasing program. RCRA and FSRIA require federal agencies and their contractors to give preference to the purchase of recycled content products identified by the Environmental Protection Agency (EPA) and biobased products identified by the Department of Agriculture (USDA).

RCRA and FSRIA require the Office of Federal Procurement Policy (OFPP) to report to Congress biennially on federal agencies' compliance with the buy-recycled and buy-biobased requirements. In an effort to develop a more efficient and less burdensome reporting process, OFPP and the Office of the Federal Environmental Executive (OFEE) jointly survey agencies annually on their green purchasing, recycling and waste prevention practices. This report uses survey responses on agencies' compliance with the RCRA and FSRIA requirements. This is the 15<sup>th</sup> RCRA report to Congress and covers activities from fiscal years 2004 to 2007. This is the first report on FSRIA activities and describes agencies' initial implementation efforts.

As this report explains, the executive branch took several key steps during the reporting period to strengthen green purchasing and reinforce the requirements of RCRA and FSRIA. These steps include:

*A strengthened framework for environmental management.* In January 2007, President Bush signed Executive Order (EO) 13423, *Strengthening Federal Environmental, Energy and Transportation Management*. The EO, and implementing instructions issued by the Council on Environmental Quality (CEQ) in March 2007, established new goals, practices, and reporting to reinforce the tenets of RCRA and FSRIA through the required use of sustainable environmental practices.

*Implementation of biobased procurement preferences.* In January 2005, USDA issued a rule establishing the framework guidelines for the designation and procurement of biobased products. In March 2006, USDA began designating biobased items under FSRIA. Through the end of FY 2007, USDA designated six biobased items for preferred procurement. (As of the date of publication of this report, USDA has designated more than 30 items.) Agencies are required to incorporate the purchasing requirements into their affirmative procurement programs (APPs), more recently referred to as green purchasing plans (GPPs), for all USDA-designated products within one year of designation. These requirements were incorporated into the Federal Acquisition Regulation (FAR) in November 2007.

*Improved program monitoring.* In January 2006, OMB initiated semi-annual reviews of the environmental stewardship practices at 22 agencies. As of December 2007:

- All federal agencies had written comprehensive APPs/GPPs in place for purchasing green products and services, including recycled content and biobased products.
- All agencies demonstrated compliance in representative acquisitions where recycled content and biobased products are most commonly used.
- Most agencies are monitoring compliance and developing corrective action plans to address shortcomings when identified.
- All agencies provide training to their acquisition personnel.

Data collection on green purchasing remains a challenge, in part because acquisition of recycled content and biobased items are often incorporated into larger acquisitions, which adds to the complexity and cost of capturing information. In addition, agencies do not track purchases of individual items made with federal purchase cards. These difficulties notwithstanding, reporting agencies have made good faith efforts to collect information on indicator items of EPA-designated products. Indicator items are a sub-set of EPA-designated products upon which OFPP collects and reports purchasing data. In addition, a number of agencies reported on their “early adoption” efforts with biobased purchasing. Information from select agencies on purchases of EPA-designated indicator items and early adoption efforts for biobased products are provided in this report in Appendix 1 and 2, respectively. OFPP, OFEE, and an inter-agency team are working with the General Services Administration (GSA) to revise the follow-on contract for the Federal Procurement Data System (FPDS) to obtain new data on compliance that will provide better insight than is currently available through FPDS data.

## **I. Green purchasing requirements**

### **A. Resource Conservation and Recovery Act**

Section 6002 of the RCRA, 42 U.S.C. 6962, establishes the “buy recycled” component of a comprehensive APP/GPP. In order to create markets for industrial by-products and for materials recovered in home and office recycling programs, it is federal procurement policy to purchase products made with recovered materials to the maximum extent practicable. Under RCRA section 6002, EPA designates these products and provides purchasing recommendations, including recommended percentages of recycled content.

EPA designates the recycled content products in the Comprehensive Procurement Guidelines and provides recommendations in Recovered Materials Advisory Notices (RMANs). RCRA requires federal agencies to amend their APPs and begin purchasing the EPA-designated products within one year after EPA issues final product designations. Since 2003, EPA has designated eight new items and modified the requirements of four previously designated items. See text box below.

### **EPA-Designated Items**

**Items newly designated since 2003:** (i) modular threshold ramps, (ii) nonpressure pipe, (iii) roofing materials, (iv) office furniture, (v) rebuilt vehicular parts, (vi) bike racks, (vii) blasting grit, and (viii) fertilizer.

**Modifications since 2003 to previously designated items:** (a) cement and concrete (added cenospheres and silicon fume as recovered material options), (b) railroad crossing surfaces (added recovered wood and plastic as recommended recovered materials), (c) polyester carpet (revised for moderate end-uses only), and (d) compost (revised to include compost from biosolids and manure).

For additional information, such as subcategories for the items described in the text box, see 72 FR 52475 (September 14, 2007) and 69 FR 24028 (April 20, 2004).

#### **B. Farm Security and Rural Investment Act of 2002**

Section 9002 of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, (FSRIA) established a biobased products purchasing program similar to the recycled content purchasing program under RCRA. USDA designates biobased products for procurement preference and recommends the highest biobased content practicable. Agencies are required to establish APPs for the designated products or incorporate requirements for the designated products into their existing APP/GPP. The first designation was issued in March 2006 and included recommendations for purchasing the designated products. Through the end of FY 2007, USDA designated six biobased items: mobile equipment hydraulic fluids, roof coatings, water tank coatings, diesel fuel additives, penetrating lubricants, bedding, bed linens, and towels. For additional information, such as subcategories for the items above, see 71 FR 13686 (March 16, 2006).

The FAR was amended in November 2007 to incorporate the biobased procurement preference requirements of FSRIA. The bulk of the requirements are incorporated in the same subpart that provides direction to contracting officers on RCRA (i.e., FAR Subpart 23.4). Both laws have similar triggering, preference, and exemption provisions and both mandate a preference program. Both also require federal agencies responsible for drafting specifications to review and revise their specifications to require the use of recovered materials and biobased products. By integrating the regulations implementing the two laws, efficiencies can be achieved at the contracting officer level by eliminating the repetitive requirement of reconciling the two provisions. For additional information, see 72 FR 63040 (November 7, 2007) and 71 FR 77360 (December 26, 2006).

In addition, in May 2007, a FAR revision was proposed to make clear that the requirements to purchase EPA-designated items applied to services and construction contracts. (This FAR revision, including a related clause, was issued as a final rule in April 2008.)

### C. Executive Order 13423

On January 24, 2007, President Bush signed EO 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*. This EO consolidates the requirements of five executive orders and two memoranda of understanding addressing environmental management. EO 13423 strengthens those requirements and establishes new goals, practices, and reporting requirements. The EO sets goals in the areas of energy efficiency, acquisition, renewable energy, toxics reductions, recycling, renewable energy, sustainable buildings, electronics stewardship, fleets, and water conservation. In addition, the EO requires more widespread use of environmental management systems as the framework in which to manage and continually improve sustainable practices. With respect to agency acquisitions of goods and services, the EO requires: (i) use of sustainable environmental practices, including acquisition of biobased, environmentally preferable, energy-efficient, water-efficient, and recycled-content products, and (ii) use of paper containing at least 30 percent postconsumer fiber.

The EO and CEQ implementing instructions incorporate the acquisition requirements of RCRA and FSRIA as part of a comprehensive environmental management framework. These documents require agencies to give preference in their APP/GPP to the purchase of green products and services, including:

- Recycled content products designated by EPA's Comprehensive Procurement Guidelines;
- Biobased products designated by USDA in the BioPreferred program;
- ENERGY STAR products identified by the Department of Energy (DOE) and EPA, as well as Federal Energy Management Program (FEMP)-designated energy-efficient products;
- Water-efficient products, including those meeting EPA's WaterSense standards;
- Energy from renewable sources;
- Alternative fuel vehicles and alternative fuels required by the Energy Policy Act (EPACT);
- Environmentally preferable products and services, including Electronic Product Environmental Assessment Tool (EPEAT)-registered products;
- Products with low or no toxic or hazardous constituents; and
- Non-ozone depleting substances, as identified in EPA's Significant New Alternatives Program (SNAP).

## II. Program monitoring

In January 2006, at the White House Summit on High Performance Green Buildings, OMB in coordination with OFEE launched an initiative to track agencies' progress in implementing energy, transportation and environmental stewardship mandates. The Environmental Stewardship scorecard covers a wide range of requirements, including progress toward and results in achieving green purchasing requirements through compliance and implementation of agency APPs/GPPs.

### **Environmental Stewardship Standards for Success on Green Purchasing**

Through the use of a scorecard and in consultation with OFEE, OMB holds agencies accountable for ensuring that they:

- have in place a comprehensive, written APP/GPP that includes all green products and services covered in EO 13423;
- demonstrate compliance in representative acquisitions (e.g., construction, Operations and Maintenance (O&M), office supplies, etc.);
- monitor compliance annually;
- develop corrective action plans to address shortcomings; and
- conduct training for all appropriate personnel.

#### A. Standards for success for green purchasing

##### 1. Written APP/GPP

Section 6002 of RCRA, section 9002 of FSRIA, and EO 13423 require agencies to establish APPs for purchasing EPA-designated and biobased products. The EO further requires agencies to include all green purchasing areas in their APP/GPP in order to have a comprehensive program. The Environmental Stewardship scorecard holds agencies accountable for having a comprehensive written APP/GPP that covers all green purchasing, including for recycled content and biobased products.

##### 2. Demonstration of compliance in representative acquisitions

Through their responses to the annual RCRA and FSRIA survey, as well as their scorecard progress reports, agencies must demonstrate that they have reviewed contracts to ensure requirements for recycled content and biobased products were specified and that appropriate clauses were included. These contracts generally include those for janitorial and cafeteria services, fleet management, O&M, and others where recycled content and biobased

products would be most commonly used. Agencies typically focus on a specific functional area to demonstrate compliance, such as janitorial service contracts. A few have developed information management systems that track compliance.

### 3. Compliance monitoring

Agencies must demonstrate that they have reviewed their implementation practices and procedures at least annually. Agencies that rely on sub-agencies or bureaus must demonstrate compliance monitoring occurs at that level as well. The annual RCRA and FSRIA reports ask agencies to assess acquisition data in FPDS for trends and problem areas and to conduct facility reviews for compliance with the green purchasing requirements, addressing the following issues:

- What percentage of facilities conducted and documented contracting and/or environmental audits for green purchasing compliance?
- Does the agency conduct trend analysis of audit, training, and FPDS data to assess green purchasing program effectiveness?
- What types of trends are realized?
- Are audit/review findings reported to senior facility management?
- Does senior facility management track corrective actions from these findings?

### 4. Identification and correction of shortcomings

Agencies are expected to take corrective actions in a timely manner to address the shortcomings identified through compliance monitoring. OMB's Environmental Stewardship scorecard measures their progress against performance and schedule milestones.

### 5. Training

In order for implementation of affirmative procurement to be effective, both the requesters (e.g., facility and program personnel) and the purchasers (e.g., contracting officers, contracting specialists, and purchase card holders) must be aware of the requirement to purchase green products and services. Training is particularly important for purchase card holders because the quantity of purchase card transactions is increasing and, as noted earlier, there are no automated mechanisms to track purchases of recycled and biobased products made with a purchase card.

In their annual RCRA and FSRIA reports, agencies are expected to address the following issues:

- Who is responsible for conducting training?
- What percentage of acquisition personnel has documented green purchasing training within the past three years?
- Who actually provides training – agency personnel, outside sources, or both?



- What percentage of purchase card holders has documented green purchasing training within the past three years?
- Who provides the training to purchase card holders?
- How is training of purchase cardholders documented?

These training efforts are facilitated in a variety of ways -- OFPP, OFEE and the agencies have created several tools to assist with program implementation, including:

- The Defense Acquisition University offers a two-hour online green procurement training module developed by the Department of Defense (DoD) GPP Workgroup and OFEE.
- The Federal Acquisition Institute web site links to numerous green procurement training resources offered in both classroom and online environments.
- GSA includes an OFEE-developed module on green purchasing in its GSA SmartPay® web-based training for holders of the governmentwide purchase card.
- OFEE provides classroom training to hundreds of agency purchase card holders, contracting officials, contracting officer technical representatives, and others.
- The Defense Logistics Agency (DLA) Training Center offers a two-day "Buying Green" course.

## B. Results

Since January 2006, OMB has conducted semi-annual assessments of 22 agencies on achieving standards for success including meeting the green purchasing mandates.

### **Summary of Agency Achievements in Green Purchasing**

- All agencies had written comprehensive APPs/GPPs in place for purchasing all green products and services covered in EO 13423, including recycled content and biobased products under RCRA and FSRIA respectively.
- All agencies demonstrated compliance in representative acquisitions.
- Most agencies are now monitoring compliance and developing corrective action plans to address shortcomings when identified.
- All agencies provide training to their acquisition personnel.

As part of the scorecard process, OMB hosted meetings so that senior officials, at the Assistant Secretary level or above, who are accountable for their agency's progress, can be informed on the latest tools available to assist them in meeting and exceeding the EO, statutory requirements, and goals. An agency-by-agency summary is provided in the table below.

### Achievements in Green Purchasing by Agency - 2007<sup>1</sup>

	Has a written APP/GPP	Demonstrates compliance	Monitors compliance	Identifies & corrects shortcomings	Provides training
USDA	✓	✓	✓	✓	✓ <sup>2</sup>
Education	✓	✓			✓
DOE	✓	✓	✓	✓	✓
EPA	✓	✓	✓	✓	✓
HHS	✓	✓	✓ <sup>2</sup>	✓	✓
DHS	✓	✓	✓	✓	✓ <sup>2</sup>
HUD	✓	✓	✓		✓
DOI	✓	✓	✓		✓
DOJ	✓ <sup>3</sup>	✓			✓
DOL	✓	✓	✓	✓	✓
NASA	✓	✓	✓	✓	✓
OPM	✓	✓	✓	✓	✓
USPS	✓	✓	✓	✓	✓
State	✓	✓	✓	✓	✓
TVA	✓	✓	✓	✓	✓
Treasury	✓ <sup>3</sup>	✓	✓	✓	✓
VA	✓	✓	✓	✓	✓
DOC	✓ <sup>2</sup>	✓	✓	✓	✓
DOD	✓	✓	✓	✓	✓
GSA	✓ <sup>2</sup>	✓	✓		✓
SSA	✓ <sup>2</sup>	✓	✓	✓	✓
DOT	✓ <sup>2</sup>	✓	✓		✓

<sup>1</sup> This table represents achievements as of the end of FY 2007. Agencies have continued to make progress in green purchasing in FY 2008.

<sup>2</sup> Partially implemented.

<sup>3</sup> Sub-agencies or bureaus must develop supplemental plans.

#### C. Data collection and analysis

Data collection on green purchasing remains a challenge. Acquisitions of recycled content and biobased products are often incorporated as part of a larger contract -- e.g., for janitorial, fleet management, or O&M services or are bought with a purchase card. The government's acquisition tracking systems are not designed to collect dollar value and volume information on such purchases. It is for this reason that reporting and assessment generally focused more on compliance with environmental purchasing requirements through the development of written comprehensive APPs and GPPs, training, and oversight than on dollars expended through individual transactions. New requirements are being drafted for the follow-on contract for FPDS so that information on compliance with green purchasing requirements will be captured routinely.

**Data on EPA-Designated Indicator Items**

Table 1. Provides the FY 2004 and FY 2005 data on select agencies' purchases of indicator products presented as the percentage of the total purchases that contained recycled materials. Format is "percentage 2004/percentage 2005."

	<b>DoD</b>	<b>DOE</b>	<b>NASA</b>	<b>GSA</b>	<b>VA</b>	<b>DOT</b>
Tissue products	N.A./N.A.	97/82	74/91	87/96	72/70	96/25
Toner cartridges	100*/100*	88/32	69/64	46/25	58/60	72/61
Concrete	N.A./N.A.	99/83	99/82	96/77	25/12	4/.8
Landscaping timbers	N.A./N.A.	100/100	N.P	100/0	100/88	N.P
Park benches and picnic tables	N.A./N.A.	100/100	100/100	6/95	29/51	N.P
Traffic barricades	N.A./N.A.	100/7	73/95	96/100	26/40	N.P.
Oil	25*/31*	76/39	34/29	46/**	34/19	N.P.
Signage	N.A./N.A.	82/56	83/96	52/68	20/27	2/4

Notes: N.A. – Not Available. The DoD does not have an automated system to track green purchases of these specific items made at installation or lower command level; therefore, no percentages are available for purchases of these indicator items.

N.P. – Not purchased

\* Direct purchases reported by the DLA for DoD

\*\* Unknown

Table 2. Provides the FY 2006 and FY 2007 data on select agencies' purchases of indicator products presented as the percentage of the total purchases that contained recycled materials. Format is "percentage 2006/percentage 2007."

	<b>DoD</b>	<b>DOE</b>	<b>NASA</b>	<b>GSA</b>	<b>VA</b>	<b>DOT</b>
Tissue products	N.A./N.A.	79/83	89/97	61/67	86/69	91/Inc
Toner cartridges	100*/100*	34/27	70/51	6/91	63/62	32/Inc
Landscaping timbers	N.A./N.A.	98/83	73/93	0/100	55/37	5/Inc
Park benches and picnic tables	48*/0	100/85	100/100	0/100	70/50	0/Inc
Traffic barricades	N.A./N.A.	59/94	70/78	9/84	17/52	N.P.
Oil	55*/100*	38/46	32/10	Inc/Est	30/32	N.P.
Signage	N.A./N.A.	34/42	76/91	22/54	20/26	55/Inc

Notes: N.A. – Not Available. The DoD does not have an automated system to track green purchases of these specific items made at installation or lower command level; therefore, no percentages are available for purchases of these indicator items.

\* Direct purchases reported by the DLA for DoD

N.P. – Not purchased

Inc. – Provided incomplete information

Est. – Estimated data. Most of GSA's purchases of replacement oil are made as part of vehicle maintenance services obtained at commercial service stations using the fleet purchase card. As with data from other purchase card purchases, no system available to capture this level of detail on the purchases. OFPP and OFEE did not require agencies to report on concrete in FY 2006 and 2007 because data on individual purchases is not readily available. Instead, agencies were asked to describe their efforts at greening construction contracts.

### **Early Adopters of Biobased Products**

**Department of Agriculture** is removing single use petroleum-based food service products (plates, bowls, trays, cups, cutlery, etc) from the Washington DC area cafeterias and replacing them with food service products made from renewable/biobased materials which can be composted and returned friendly to the earth. The Cafeteria Green Team has designed a workable green cafeteria program that is being replicated by other federal cafeterias, including those in the U.S. Capitol complex as announced December 2007.

**Department of Energy** was an early adopter of biobased products, testing and evaluating many products including biobased cleaners, lubricants, biodiesel, hydraulic fluid, carpet, sealants, and insulation. In response to the Department's early adoption and promotion of the USDA Biobased Product Program, many sites have already transitioned to biobased products through either immediate purchase or after field testing.

**Department of Homeland Security**, U.S. Coast Guard Aircraft Repair and Supply Center, Elizabeth City, NC, has primarily adopted cornstarch blast media for de-painting operations. Not only has this eliminated the need for most plastic bead blasting but has minimized the use of chemical stripper.

**Department of the Interior** reported that in FY 2007, six of nine bureaus purchased or tested more than 30 biobased products. The agency reports that 49% of its facilities have indicated use of green cleaning products. The Department of the Interior (DOI) worked with the National Industries for the Blind (NIB) and NISH to increase the supply of recycled content, environmentally preferable, and biobased products available from NIB and NISH affiliate organizations.

**Department of Veterans Affairs**, Fort Custer National Cemetery participated in a successful pilot project to explore the use of biobased fluids to replace or partially replace petroleum-based fuel and lubricating fluids. As a result of the successful pilot project, the agency plans to use biobased B20 Biodiesel, as well as other biobased fluids and lubricants at its other 122 national cemeteries. The Department also sponsored and implemented a biobased product pilot project featuring evaluation of several biobased cleaning replacements at a VA medical center.

**Environmental Protection Agency** initiated a Blanket Purchase Agreement (BPA) for "green" office products, giving employees access to over 1000 products, including recycled content, biobased, and environmentally preferable.

**General Services Administration** reported that some of its custodial contractors use biobased cleaners as part of the green cleaning program. GSA also demonstrated the use of biobased water proofing material in a roof replacement.

**Homestead Air Reserve Base, FL**, created an “Environmentally Friendly Products Section” at the store. The store stocks recycled content and biobased products, as well as products with other environmental attributes. The environmentally friendly products section also helps customers meet requirements to purchase products from the blind and severely disabled.

**NASA**, Ames Research Center, replaced a petroleum-based lubricant with a biobased penetrating lubricant.

For other green purchasing success stories, see the links for the White House Closing the Circle (CTC) Awards, *Closing the Circle News*, and *Leading by Example: A Report to the President on Federal Environmental and Energy Management (2004 – 2006)* at [www.ofee.gov](http://www.ofee.gov).