

From: Owens.Nicole@epamail.epa.gov  
Sent: Wednesday, February 13, 2008 3:28 PM  
To: Daumit, Alexander J.  
Subject: EPA Comments on Proposed OMB Policy Letter on the Acquisition of Green Products and Services

Hi Jim -

Following are EPA comments on the Proposed Policy Letter on the Acquisition of Green Products and Services.

If you have any questions, please let me know.

Thanks,  
Nicole

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#### Procurement Related

The proposed letter requests a development and implementation of a formal and comprehensive affirmative procurement program with preferences toward the acquisition of green products and services. It is stated that these preferences are mandatory only when they are available and at a reasonable price. The letter goes on to say that when possible "an agency determines that a green product or service can meet its performance needs, it shall first consider mandatory and preferred sources (ie. small and disadvantaged businesses) to obtain green products or services. If these sources (small and disadvantaged businesses) do not offer products or services that meet the agency's performance needs, the agency shall obtain such products and services from other sources." It is possible that there may be a significant amount of push-back from the small business community as this means that unless they are selling green products or services they may no longer be of use to the federal government. Many of the small businesses are not yet up to the environmental standards that are requested in this proposed letter.

## Non-Procurement Related

( Page 73906, Column 1, under # 6. Background) Delete the following text: "...environmental, transportation, and energy related..."  
Recommend deletion of this text because the EO is not limited to only "environmental, transportation, and energy-related" activities.  
Rather, the EO goes beyond these agency activities.

(Page 73906, Column 2, under #8. Responsibilities)  
Please clarify as to:

- 1.) Whether it is also federal policy that this applies to purchases made by grantees using federal funds.
- 2.) Whether this applies to purchases made by the Federal Highway Trust Fund. The conference committee report from the Hazardous and Solid Waste Amendments of 1984 states that RCRA Section 6002 does apply to FHWA's direct procurement and indirect Federal-aid programs, including the Trust Fund. (Cong. Rec. H 11138, Oct. 3, 1984).

(Page 73908, Column 1, under F(1)(a)) Change "relate" to "related."  
Also, a more direct link to the guidance is  
[http://www.wbdg.org/references/sustainable\\_eo.php](http://www.wbdg.org/references/sustainable_eo.php)

(page 73908, Column 1, under F(3)) Add lead-free wheel weights to the list of items for fleet and rental car services

P. 73906, sec. 8.A(1)(f): More guidance should be provided concerning "Low or no toxic or hazardous chemicals or materials or products containing lesser or no toxic or hazardous constituents." This determination should address a broad range of health and environmental effects. While it is not expected that agencies will conduct detailed hazard assessments of all relevant chemicals and products, agencies should make use of existing, generally accepted hazard conclusions, such as carcinogen listings by EPA, NTP, or IARC; listings of developmental and reproductive toxicants by the state of California; statutory listings of hazardous chemicals under the CAA, CWA, RCRA, CERCLA, etc.; health and environmental hazard classifications done under the Globally Harmonized System of Classification and Labelling of Chemicals; hazard warnings required under FHSA or OSHA regulations. This is not a comprehensive listing of sources of hazard information, but is an example of the types of simple, "bottom-line" information on hazards that can be used in comparing chemicals and products.

P. 73907: sec. 8.C(2) requires that "GSA and DLA shall provide only Energy Star[reg] and FEMP-designated energy efficient products for

all categories of products covered by the Energy Star and FEMP programs, unless the head of an agency provides written justification as covered in paragraph 8.G.(2) of this policy letter." We recommend that EPEAT-covered product categories and EPEAT-registered products be included in this requirement, with the same exemption provision as stated for the Energy Star and FEMP products. Limiting GSA and DLA offerings to EPEAT-registered products will simplify the product selection process for purchasers and should also improve compliance with EPEAT purchasing requirements. Because we expect that exemptions from EPEAT requirements will be necessary for only a small number of specialty products, we think that requiring a written justification for exemption is not too onerous.

P. 73907 – 73908: sec. 8.F states "Executive agencies must include requirements and preferences for the use of green products in all new service contracts and re-competed service contracts where green products may be substituted for equivalent non-green products in the performance of the contract." Electronic equipment leasing and seat management are types of service contracts that should be included in this section, with a requirement for the purchase of EPEAT-registered products under those contracts.

P. 73908, sec. 8.F(1)(a): We suggest striking the clause "as long as it is life cycle cost effective to do so" at the end of this section. The EO 13423 Implementing Instructions are very clear that all five guiding principles are to be implemented unless written justification is provided. Some of the potential strategies for implementing the 5 guiding principles may not be life cycle cost effective according to the strictest definition, but agencies will still have the ability to fund such strategies/technologies in support of environmental stewardship goals. Also, we have some concern that agencies may interpret the clause as an up-front requirement to conduct a life cycle cost analysis before any strategy can be implemented, which could create a barrier for many worthwhile activities.

P. 73908, sec. 8.F(4) Janitorial services and (5) Laundry services: It may be worth noting the Green Seal and EcoLogo standards and EPA Design for the Environment (DfE) program activities in these product areas. ISO 14024 Type I labels (like Green Seal and EcoLogo) and similar programs, such as the EPA DfE program, are consistent with EPA's guidance on EPP and provide purchasers with a practical way of identifying environmentally preferable products. It may also be worth noting this in a general way in sec. 8.A.(1)(d) of the general requirements on p. 73906, i.e. that the use of ISO Type I labels or other life cycle-based standards and evaluations is an appropriate approach for identifying environmentally preferable products.

P. 73908, sec. 8.F(6): Add: Agencies should consult EPAAR sec. 1523.703-1 “Acquisition of environmentally preferable meeting and conference services” and 1552.223-71 “EPA Green Meetings and Conferences” for more detailed guidance on policy, procedures, and criteria related to green meeting and conference services.

#### Biodiesel and RCRA Statutory Requirements

When EPA inspects Federal Facilities for compliance with the Federal Buy Recycled regulations under Section 6002 of the Solid Waste Disposal Act, we check for about 63 products in 8 categories which have been designated for Federal Facilities to purchase under our Comprehensive Procurement Guidelines (CPG) program. Based on a number of Region 9 waste-derived biodiesel projects, we suggest exploring ways to include this renewable fuel as part of this requirement. The language in section 6002(c)(1) dealing with fossil fuels states the following:

(2) Agencies that generate heat, mechanical, or electrical energy from fossil fuel in systems that have the technical capability of using energy or fuels derived from solid waste as a primary or supplementary fuel shall use such capability to the maximum extent practicable.

Biodiesel derived from used fryer oil/waste restaurant grease (yellow grease) or fats-oil-grease (FOG) from waste water facilities/POTWs (brown grease) is a fuel derived from solid waste. Biodiesel would fit well as a proposed recycled-content procurement option for the vehicular products.

There are many federal facilities with diesel engines generating heat, electricity, etc. E.g., Navy/Marines vessels are powered by diesel engines, diesel generators provide power to vessels when docked along piers, diesel generators run as back-up systems when the electric grid fails, diesel irrigation pumps are operated by BML, NPS, USBR on federal lands. Since mechanical energy is included in the legal language, vehicles such as locomotives, trucks, buses, should also be considered as part of this section. Therefore, we would have a BIG potential for biodiesel. Obviously, biodiesel can be a fuel derived from solid waste if you do not use virgin oil as feedstock, both as B20 or B100.