

(3) The \$10,000 threshold applies to procuring agencies as a whole rather than to agency subgroups such as regional offices or subagencies of a larger department or agency.

(b) The term *procurement actions* includes:

(1) Purchases made directly by a procuring agency and purchases made directly by any person (e.g., a contractor) in support of work being performed for a procuring agency, and

(2) Any purchases of designated items made “indirectly” by a procuring agency, as in the case of procurements resulting from grants, loans, funds, and similar forms of disbursements of monies.

(c)(1) This guideline does not apply to purchases of designated items which are unrelated to or incidental to Federal funding, i.e., not the direct result of a contract or agreement with, or a grant, loan, or funds disbursement to, a procuring agency.

(2) This guideline also does not apply to purchases made by private party recipients (e.g., individuals, non-profit organizations) of Federal funds pursuant to grants, loans, cooperative agreements, and other funds disbursements.

(d) RCRA section 6002(c)(1) requires procuring agencies to procure designated items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines. Procuring agencies may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

[60 FR 21381, May 1, 1995, as amended at 62 FR 60973, Nov. 13, 1997]

### § 247.3 Definitions.

As used in this procurement guideline and the related Recovered Materials Advisory Notice(s):

*Act* or *RCRA* means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C 6901 *et seq*;

*Awards and plaques* refers to free-standing statues and boardlike products generally used as wall-hangings.

*Blanket insulation* means relatively flat and flexible insulation in coherent sheet form, furnished in units of substantial area. Batt insulation is included in this term;

*Board insulation* means semi-rigid insulation preformed into rectangular units having a degree of suppleness, particularly related to their geometrical dimensions;

*Building insulation* means a material, primarily designed to resist heat flow, which is installed between the conditioned volume of a building and adjacent unconditioned volumes or the outside. This term includes but is not limited to insulation products such as blanket, board, spray-in-place, and loose-fill that are used as ceiling, floor, foundation, and wall insulation;

*Carpet cushion*, also known as carpet underlay, is padding placed beneath carpet to reduce carpet wear caused by foot traffic or furniture indentation, enhance comfort, and prolong appearance.

*Cellulose fiber loose-fill* means a basic material of recycled wood-based cellulosic fiber made from selected paper, paperboard stock, or ground wood stock, excluding contaminated materials which may reasonably be expected to be retained in the finished product, with suitable chemicals introduced to provide properties such as flame resistance, processing and handling characteristics. The basic cellulosic material may be processed into a form suitable for installation by pneumatic or pouring methods;

*Channelizers* means highly visible barrels or drums that can be positioned to direct traffic through detours;

*Compost* made from yard trimmings, leaves, grass clippings, and/or food wastes is a thermophilic converted product with high humus content. Compost can be used as a soil amendment and can also be used to prevent or remediate pollutants in soil, air, and storm water run-off.

*Delineator* means a highly visible pavement marker that can be positioned to direct traffic or define boundaries;

*Engine lubricating oils* means petroleum-based oils used for reducing friction in engine parts;

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*Federal agency* means any department, agency, or other instrumentality of the Federal government; any independent agency or establishment of the Federal government including any government corporation; and the Government Printing Office;

*Fiberglass insulation* means insulation which is composed principally of glass fibers, with or without binders;

*Flexible delineator* means a highly visible marker that can be positioned to direct traffic or define boundaries and that will flex if struck by a vehicle to prevent damage to the vehicle or the delineator;

*Flowable fill* is a low strength material that is mixed to a wet, flowable slurry and used as an economical fill or backfill material in place of concrete, compacted soils, or sand.

*Foam-in-place insulation* is rigid cellular foam produced by catalyzed chemical reactions that hardens at the site of the work. The term includes spray-applied and injected applications such as spray-in-place foam and pour-in-place;

*Garden hose* means a flexible tubing that conducts water to a specific location;

*Gear oils* means petroleum-based oils used for lubricating machinery gears;

*Hydraulic fluids* means petroleum-based hydraulic fluids;

*Hydraulic mulch* means a mulch that is a cellulose-based (paper or wood) protective covering that is mixed with water and applied through mechanical spraying in order to aid the germination of seeds and to prevent soil erosion;

*Hydroseeding* means the process of spraying seeds mixed with water through a mechanical sprayer (hydroseeder). Hydraulic mulch, fertilizer, a tacking agent, or a wetting agent can also be added to the water/seed mix for enhanced performance;

*Industrial drums* are cylindrical containers used for shipping and storing liquid or solid materials.

*Laminated paperboard* means board made from one or more plies of kraft paper bonded together, with or without facers, that is used for decorative, structural, or insulating purposes;

*Latex paint* means a water-based decorative or protective covering having a latex binder;

*Lawn edging* means a barrier used between lawns and landscaped areas or garden beds to prevent grass roots or weeds from spreading to the landscaped areas;

*Loose-fill insulation* means insulation in granular, nodular, fibrous, powdery, or similar form, designed to be installed by pouring, blowing or hand placement;

*Manual-grade strapping* refers to straps of material used with transport packaging to hold products in place on pallets or in other methods of commercial, bulk shipment. Strapping can also prevent tampering and pilferage during shipping.

*Mats* are temporary or semipermanent protective floor coverings used for numerous applications, including home and office carpet protection, car and truck floor board protection, traction on slippery surfaces, cushion from floor hardness, and reduction of injury risk during athletic events.

*Mineral fiber insulation* means insulation (rock wool or fiberglass) which is composed principally of fibers manufactured from rock, slag or glass, with or without binders;

*Pallet* means a portable platform for storing or moving cargo or freight;

*Paper* means one of two broad subdivisions of paper products, the other being paperboard. Paper is generally lighter in basis weight, thinner, and more flexible than paperboard. Sheets 0.012 inch or less in thickness are generally classified as paper. Its primary uses are for printing, writing, wrapping, and sanitary purposes. However, in this guideline, the term paper is also used as a generic term that includes both paper and paperboard.

*Paper product* means any item manufactured from paper or paperboard. The term paper product is used in this guideline to distinguish such items as boxes, doilies, and paper towels from printing and writing papers.

*Park benches and picnic tables* are recreational furniture found in parks, outdoor recreational facilities, and the grounds of office buildings and other facilities.

*Parking stop* means a barrier used to mark parking spaces and keep parked vehicles from rolling beyond a designated parking area;

*Perlite composite board* means insulation board composed of expanded perlite and fibers formed into rigid, flat, rectangular units with a suitable sizing material incorporated in the product. It may have on one or both surfaces a facing or coating to prevent excessive hot bitumen strike-in during roofing installation;

*Person* means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Federal agency, State, municipality, commission, political subdivision of a State, or any interstate body;

*Phenolic insulation* means insulation made with phenolic plastics which are plastics based on resins made by the condensation of phenols, such as phenol or cresol, with aldehydes;

*Plastic fencing* means a barrier with an open-weave pattern that can be used to control drifting snow or sand by restricting the force of wind and to provide a warning or barrier in construction and other areas;

*Plastic lumber landscaping timbers and posts* are used to enhance the appearance of and control erosion in parks, highways, housing developments, urban plazas, zoos, and the exteriors of office buildings, military facilities, schools, and other public use areas.

*Playground equipment* includes many components, like slides, merry-go-rounds, hand rails, etc., and is found in parks, schools, child care facilities, institutions, multiple family dwellings, restaurants, resort and recreational developments, and other public use areas.

*Polyisocyanurate insulation* means insulation produced principally by the polymerization of polymeric polyisocyanates, usually in the presence of polyhydroxyl compounds with the addition of cell stabilizers, blowing agents, and appropriate catalyst to produce a polyisocyanurate chemical structure;

*Polystyrene insulation* means an organic foam composed principally of polymerized styrene resin processed to form a homogenous rigid mass of cells;

*Polyurethane insulation* means insulation composed principally of the catalyzed reaction product of polyisocyanates and polyhydroxyl compounds, processed usually with a blowing agent to form a rigid foam having a predominantly closed cell structure;

*Postconsumer material* means a material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. *Postconsumer material* is a part of the broader category of *recovered materials*.

*Postconsumer recovered paper* means:

(1) Paper, paperboard and fibrous wastes from retail stores, office buildings, homes and so forth, after they have passed through their end-usage as a consumer item including: Used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards and used cordage; and

(2) All paper, paperboard and fibrous wastes that enter and are collected from municipal solid waste;

*Practicable* means capable of being used consistent with: Performance in accordance with applicable specifications, availability at a reasonable price, availability within a reasonable period of time, and maintenance of a satisfactory level of competition;

*Printer ribbon* means a nylon fabric designed to hold ink and used in dot matrix and other types of impact printers;

*Procurement item* means any device, good, substance, material, product, or other item, whether real or personal property, which is the subject of any purchase, barter, or other exchange made to procure such item;

*Procuring agency* means any Federal agency, or any State agency or agency of a political subdivision of a State, which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract;

*Purchasing* means the act of and the function of responsibility for the acquisition of equipment, materials, supplies, and services, including: Buying, determining the need, selecting the supplier, arriving at a fair and reasonable price and terms and conditions,

preparing the contract or purchase order, and follow-up;

*Railroad grade crossing surfaces* are materials placed between railroad tracks, and between the track and the road at highway and street railroad crossings, to enhance automobile and pedestrian safety.

*Recovered materials* means waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;

*Recovered materials*, for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term *recovered materials* includes:

(1) Postconsumer materials such as—

(i) Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: Used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and

(ii) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and

(2) Manufacturing, forest residues, and other wastes such as—

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: Envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

(iii) Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;

(iv) Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and

(v) Fibers recovered from waste water which otherwise would enter the waste stream.

*Re-refined oils* means used oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process;

*Restroom divider/partition* means a barrier used to provide privacy in public restroom facilities;

*Retread tire* means a worn automobile, truck, or other motor vehicle tire whose tread has been replaced;

*Rock wool insulation* means insulation which is composed principally from fibers manufactured from slag or natural rock, with or without binders;

*Shower divider/partition* means a water-proof barrier used to provide privacy in public shower facilities;

*Signage* (including sign posts and supports) is used for identification and directional purposes for public roads and highways, and inside and outside office buildings, museums, parks, and other public places.

*Soaker hose* means a perforated flexible tubing that is used to deliver gentle irrigation to plants;

*Sorbents* (i.e., absorbents and adsorbents) are materials used to retain liquids and gases in a diverse number of environmental, industrial, agricultural, medical, and scientific applications. Absorbents incorporate a substance while adsorbents gather substances on their surfaces.

*Specification* means a description of the technical requirements for a material, product, or service that includes the criteria for determining whether these requirements are met. In general, specifications are in the form of written commercial designations, industry standards, and other descriptive references;

*Spray-in-place insulation* means insulation material that is sprayed onto a

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surface or into cavities and includes cellulose fiber spray-on as well as plastic rigid foam products;

*Spray-in-place foam* is rigid cellular polyurethane or polyisocyanurate foam produced by catalyzed chemical reactions that hardens at the site of the work. The term includes spray-applied and injected applications;

*State* means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

*Structural fiberboard* means a fibrous-felted, homogenous panel made from lignocellulosic fibers (usually wood, cane, or paper) and having a density of less than 31 lbs/ft<sup>3</sup> but more than 10 lbs/ft<sup>3</sup>. It is characterized by an integral bond which is produced by interfelting of the fibers, but which has not been consolidated under heat or pressure as a separate stage of manufacture;

*Tire* means the following types of tires: Passenger car tires, light- and heavy-duty truck tires, high-speed industrial tires, bus tires, and special service tires (including military, agricultural, off-the-road, and slow-speed industrial);

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#### § 247.4 Contracting officer requirements.

Within one year after the effective date of each item designation, contracting officers shall require that vendors:

(a) Certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements, and

(b) Estimate the percentage of total material utilized for the performance of the contract which is recovered materials.

#### § 247.5 Specifications.

(a) RCRA section 6002(d)(1) required Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies to revise

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their specifications by May 8, 1986, to eliminate any exclusion of recovered materials and any requirement that items be manufactured from virgin materials.

(b) RCRA section 6002(d)(2) requires that within one year after the publication date of each item designation by the EPA, each procuring agency must assure that its specifications for these items require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of these items.

#### § 247.6 Affirmative procurement programs.

RCRA section 6002(i) provides that each procuring agency which purchases items designated by EPA must establish an affirmative procurement program, containing the four elements listed below, for procuring such items containing recovered materials to the maximum extent practicable:

(a) Preference program for purchasing the designated items;

(b) Promotion program;

(c) Procedures for obtaining estimates and certifications of recovered materials content and for verifying the estimates and certifications; and

(d) Annual review and monitoring of the effectiveness of the program.

#### § 247.7 Effective date.

Within one year after the date of publication of any item designation, procuring agencies which purchase that designated item must comply with the following requirements of RCRA: affirmative procurement of the designated item (6002(c)(1) and (i)), specifications revision (6002(d)(2)), vendor certification and estimation of recovered materials content of the item (6002(c)(3) and (i)(2)(C)), and verification of vendor estimates and certifications (6002(i)(2)(C)).

### Subpart B—Item Designations

#### § 247.10 Paper and paper products.

Paper and paper products, excluding building and construction paper grades.

#### § 247.11 Vehicular products.

(a) Lubricating oils containing re-refined oil, including engine lubricating