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## I. Authority

This guideline is promulgated under the authority of sections 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a) and 6962, and section 502 of Executive Order 12873 (58 FR 54911; October 22, 1993).

## II. Background

RCRA section 6002 and Executive Order 12873 set forth requirements for the procurement of products containing recovered materials and the issuance of procurement guidelines. The requirements of RCRA section 6002 apply to "procuring agencies," as defined in RCRA section 1004; Executive Order requirements apply only to Federal "Executive agencies," as defined in section 202 of Executive Order 12873. Under RCRA section 1004(17), a "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."

## A. Purpose of the Procurement Guidelines

In RCRA, Congress acknowledged the importance of recycling in helping to manage the nation's solid waste and recognized that recycling is not merely the collection of materials, but includes the manufacture of products with these materials and the purchase of recycled content products by consumers. RCRA section 6002 established the government's buy-recycled program, which uses Federal purchasing power to stimulate the demand for products made with recovered materials. The statute does this by requiring EPA to issue guidelines to be used by government when procuring recycled products. The guidelines are used not only by Federal agencies but also by state and local agencies and their contractors. Many state and local agencies have urged EPA to designate additional items to increase markets for recovered materials. President Clinton's Executive Order 12873 further bolsters the Federal government's commitment to buy products containing recovered materials by "streamlining" the process used by EPA in fulfilling its obligation under RCRA section 6002 to designate items that are or can be made with recovered materials.

Executive Order 12873 recognizes that the nation's interest is served when the Federal government makes more efficient use of natural resources by maximizing recycling and preventing waste wherever possible. The E.O. also recognizes that the Federal government should-through cost-effective waste prevention and recycling activitieswork to conserve disposal capacity, and serve as a model in this regard for private and other public institutions. For many products, the use of recovered materials in manufacturing can result in significantly lower energy and material input costs than when virgin raw materials are used. Use of recovered materials may reduce the generation and release of air and water pollutants often associated with manufacturing (including air emissions that contribute to the level of "greenhouse gases" and ozone depletion). Using recovered materials also reduces the environmental impacts of mining, harvesting, and other extraction of natural resources, while conserving non-renewable resources for future use. Recycling can also divert large amounts of materials from landfills. This reduces the need to expand existing or site new disposal facilities, allowing local officials to devote more attention to health, education, and safety issues.

Executive Order 12873 also points out that the use of recycled content products by the Federal government can spur private sector development of new technologies and use of such products, thereby creating business and employment opportunities that enhance local, regional, and national economies. Technological innovation associated with the use of recovered materials can translate into economic growth and make American industry more competitive in the global economy.

Both RCRA and the E.O. recognize the interdependence between buying recycled content products and the success of recycling. For recycling to occur, industry must use recovered materials as feedstock for the manufacture of new products. Despite the environmental and economic efficiencies that can be realized by using recovered materials as feedstock, a manufacturer's primary responsibility remains to produce items that meet the demands of the consumer. The Federal government, through its purchasing decisions as a consumer, can play a key role in influencing manufacturers' decisions on products made with recovered materials. By purchasing products containing recovered materials pursuant to the guidelines established under RCRA and Executive Order 12873, the Federal government and other procuring agencies have the opportunity to increase markets for recovered materials and to contribute to an increased level of recycling in this country.

EPA also strongly encourages the private sector to use these guidelines when making purchasing decisions. Private sector purchases of most designated items far exceed government purchases. By seeking products made with recovered materials, the private sector can further stimulate markets for recovered materials, reduce the generation of air and water pollutants associated with virgin material extraction and beneficiation, and, in some instances, contribute to reductions in our nation's energy usage.

## B. RCRA Section 6002

RCRA section 6002 requires EPA to designate items that are or can be made with recovered materials and to recommend practices to assist procuring agencies in purchasing the designated items. Once an item is designated by EPA, procuring agencies are required to purchase it composed of the highest percentage of recovered materials practicable (and in the case of paper, the highest percentage of postconsumer recovered materials), taking into consideration the limitations set forth in