

contains an internal standby power function, to purchase an energy-efficient product (when commercially available, life-cycle cost-effective, and practicable), *i.e.*, a product that uses no more than one watt in its standby power consuming mode. With respect to the change to the recovered material text, this rule only clarifies the condition for when the contracting office shall prepare a written justification.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### List of Subjects in 48 CFR Parts 2, 11, and 23

Government procurement.

Dated: July 16, 2003.

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*Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 11, and 23 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 11, and 23 is revised to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

### PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101, by adding in alphabetical order, the definition, “Energy-efficient standby power devices” to read as follows:

#### 2.101 Definitions.

\* \* \* \* \*

*Energy-efficient standby power devices* means products that use—

(1) External standby power devices, or that contain an internal standby power function; and

(2) No more than one watt of electricity in their standby power consuming mode or meet recommended low standby levels as designated by the Department of Energy Federal Energy Management Program.

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### PART 11—DESCRIBING AGENCY NEEDS

■ 3. Amend section 11.002 by revising paragraph (d)(1) and the introductory text of (d)(2) to read as follows:

#### 11.002 Policy.

\* \* \* \* \*

(d)(1) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*), Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management, and Executive Order 13221 of July 31, 2001, Energy-Efficient Standby Power Devices, establish requirements for acquiring—

(i) Products containing recovered materials;

(ii) Environmentally preferable products and services;

(iii) Energy-efficient products and services;

(iv) Products and services that utilize renewable energy technologies; and

(v) Products containing energy-efficient standby power devices.

(2) Executive agencies shall consider use of recovered materials, energy- and water-efficient products and services, products containing energy-efficient standby power devices, environmentally preferable purchasing criteria developed by the EPA, and environmental objectives (*see* Subparts 23.2 and 23.4, and 23.703(b)) when—

\* \* \* \* \*

■ 4. Amend section 11.101 in the introductory text of paragraph (b) by removing “must” and adding “shall” in its place; and by revising paragraph (b)(1) to read as follows:

#### 11.101 Order of precedence for requirements documents.

\* \* \* \* \*

(b) \* \* \*

(1) Energy efficiency, including using products containing energy-efficient standby power devices and renewable energy technologies; and

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### PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 5. Amend section 23.201 by adding paragraph (e) to read as follows:

#### 23.201 Authorities.

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(e) Executive Order 13221 of July 31, 2001, Energy-Efficient Standby Power Devices.

■ 6. Revise section 23.203 to read as follows:

#### 23.203 Energy-efficient products.

(a) If life-cycle cost-effective and available—

(1) When acquiring energy-using products—

(i) Agencies shall purchase ENERGY STAR® or other energy-efficient items listed on the Department of Energy’s Federal Energy Management Program (FEMP) Product Energy Efficiency Recommendations product list; and

(ii) For products that consume power in a standby mode and are listed on FEMP’s Standby Power Devices product listing, agencies shall—

(A) Purchase items which meet FEMP’s standby power wattage recommendation or document the reason for not purchasing such items; or

(B) If FEMP has listed a product without a corresponding wattage recommendation, purchase items which use no more than one watt in their standby power consuming mode. When it is impracticable to meet the one watt requirement, agencies shall purchase items with the lowest standby wattage practicable; and

(2) When contracting for services that will include the provision of energy-using products, including contracts for design, construction, renovation, or maintenance of a public building, the specifications shall incorporate the applicable requirements in paragraph (a)(1) of this section.

(b) The requirements in paragraph (a) of this section only apply when the relevant product’s utility and performance meet the agency’s need.

(c) Information is available via the Internet about—

(1) ENERGY STAR® at <http://www.energystar.gov/>; and

(2) FEMP at <http://www.eere.energy.gov/femp/procurement>.

■ 7. Amend section 23.405 by revising the introductory text of paragraph (c) to read as follows:

#### 23.405 Procedures.

\* \* \* \* \*

(c) The contracting officer shall place in the contract file a written justification if an acquisition of EPA-designated products above the micro-purchase threshold does not meet applicable minimum recovered material content recommended by EPA guidelines. If the agency has designated an Environmental Executive, the contracting officer shall give a copy of the written justification to that official. The contracting officer shall base the justification on the inability to acquire the product—

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■ 8. Amend section 23.406 by revising paragraph (a) to read as follows: