

Recovered materials means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (Executive Order 13101 and 42 U.S.C. 6903(19) and <http://www.epa.gov/cpg/>). For paper and paper products, see the definition at FAR 11.301 (42 U.S.C. 6962(h)).

Remanufactured means factory rebuilt to original specifications.

Renewable energy means energy produced by solar, wind, geothermal, and biomass power.

Renewable energy technology means—

(1) Technologies that use renewable energy to provide light, heat, cooling, or mechanical or electrical energy for use in facilities or other activities; or

(2) The use of integrated whole-building designs that rely upon renewable energy resources, including passive solar design.

(c)(1) The offeror must identify products that—

(i) Are compliant with the recovered and post-consumer material content levels recommended in the Recovered Materials Advisory Notices (RMANs) for EPA-designated products in the CPG program (<http://www.epa.gov/cpg/>);

(ii) Contain recovered materials that either do not meet the recommended levels in the RMANs or are not EPA-designated products in the CPG program (see FAR 23.401 and <http://www.epa.gov/cpg/>);

(iii) Are energy-efficient, as defined by either ENERGY STAR® and/or FEMP's designated top 25th percentile levels (see ENERGY STAR® at <http://www.energystar.gov/> and FEMP at <http://www.eere.energy.gov/femp/procurement/>);

(iv) Are water-efficient;

(v) Use renewable energy technology;

(vi) Are remanufactured; and

(vii) Have other environmental attributes.

(2) These identifications must be made in each of the offeror's following mediums:

(i) The offer itself.

(ii) Printed commercial catalogs, brochures, and pricelists.

(iii) Online product website.

(iv) Electronic data submission for GSA *Advantage!* submitted via GSA's Schedules Input Program (SIP) software or the Electronic Data Inter-change (EDI). Offerors can use the SIP or EDI methods to indicate environmental and other attributes for each product that is translated into respective icons in GSA *Advantage!*.

(d) An offeror, in identifying an item with an environmental attribute, must possess evidence or rely on a reasonable basis to substantiate the claim (see 16 CFR part 260, Guides for the Use of Environmental Marketing Claims). The Government will accept an offeror's claim of an item's environmental attribute on the basis of—

(1) Participation in a Federal agency-sponsored program (e.g., the EPA and DOE ENERGY STAR® product labeling program);

(2) Verification by an independent organization that specializes in certifying such claims; or

(3) Possession of competent and reliable evidence. For any test, analysis, research,

study, or other evidence to be "competent and reliable," it must have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

(End of clause)

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DEPARTMENT OF ENERGY

48 CFR Parts 923 and 970

RIN 1991-AB59

Acquisition Regulation: Motor Vehicle Fleet Fuel Efficiency

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its acquisition regulation to implement Executive Order 13149, dated April 21, 2000, entitled *Greening the Government Through Federal Fleet and Transportation Efficiency*. Specifically, the Department is addressing the requirements relating to Procurement of Environmentally Preferable Motor Vehicle Products and Government-Owned Contractor Operated Vehicles, as they relate to the Department's acquisition program, including its management contracts with motor vehicle fleet responsibilities.

EFFECTIVE DATE: October 2, 2003.

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SUPPLEMENTARY INFORMATION

I. Background

II. Section-by-Section Analysis

III. Procedural Requirements

A. Review Under Executive Order 12866

B. Review Under Executive Order 12988

C. Review Under the Regulatory Flexibility Act

D. Review Under the Paperwork Reduction Act

E. Review Under the National Environmental Policy Act

F. Review Under Executive Order 13132

G. Review Under the Unfunded Mandates Reform Act of 1995

H. Review Under the Treasury and General Government Appropriations Act, 1999

I. Congressional Review

J. Review Under Executive Order 13211

K. Review Under the Treasury and General Government Appropriations Act, 2001

L. Approval by the Office of the Secretary of Energy

I. Background

The purpose of this rulemaking is to implement the goals and requirements of Executive Order 13149, dated April

21, 2000 (65 FR 24593), entitled *Greening the Government Through Federal Fleet and Transportation Efficiency*.

The purpose of the Executive Order is to ensure that the Federal Government exercises leadership in the reduction of petroleum consumption through improvements in fleet fuel efficiency and the use of alternative fuel vehicles and alternative fuels. The specific provisions affecting the Department's acquisition program including its management contracts with motor vehicle fleet responsibilities are as follows. Part 2 of the Executive Order establishes goals for the reduction of petroleum consumption in the Federal Government motor vehicle fleet and requires the development of strategies for the increased use of alternative fuel vehicles, increased use of alternative fuels accompanied by improved alternative fuel infrastructure, and the acquisition of higher fuel economy vehicles. In addition, section 403 of the Executive Order encourages the acquisition by Federal agencies of environmentally preferable motor vehicle products, including the use of biobased motor vehicle products. Section 403.a emphasizes the current restriction on the use of other than re-refined motor vehicle lubricating oils (found in section 507 of Executive Order 13101, and implemented by 48 CFR (FAR) 23.404) by restating that restriction as a prohibition on the acquisition of virgin petroleum motor vehicle lubricating oils. That restriction and the requirements of Sections 403.b and 403.c are addressed by the Department's Affirmative Procurement Program. An Affirmative Procurement Program is required of Federal agencies by 48 CFR (FAR) 23.404, Agency affirmative procurement programs, and is implemented in DOE by 48 CFR (DEAR) 923.405, Procedures [DOE supplemental coverage—paragraph (e)]. The Department's Affirmative Procurement Program extends to its management contractors pursuant to 48 CFR (DEAR) 970.2304, Use of recovered/recycled materials. Section 505 of the Executive Order requires agencies to ensure that the goals and requirements of the Executive Order are incorporated into management contracts which involve management of Federal fleet motor vehicles. Finally, Section 506 of the Executive Order exempts military tactical, law enforcement and emergency vehicles from the requirements of the Executive Order.

The clause specified by this rule is a mandatory clause for use in management and operating contracts involving motor vehicle fleet operations.