

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 F.R. 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective November 3, 2003.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and

7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 18, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 03-22312 Filed 8-29-03; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

[CS Docket No. 99-363; FCC 00-99]

#### Implementation of the Satellite Home Viewer Improvement Act of 1999, Retransmission Consent Issues: Good Faith Negotiation and Exclusivity

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** This document makes a minor correction to Part 76 of the Commission's rules pertaining to retransmission consent issues which were published in the **Federal Register** at 65 FR 15559, March 23, 2000 regarding carriage of television broadcast signals by multichannel video programming distributors ("MVPDs").

**DATES:** Effective September 2, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Lewis, Media Bureau, (202) 418-2622.

**SUPPLEMENTARY INFORMATION:** The First Report and Order, FCC 00-99, adopted March 14, 2000; released March 16, 2000, approved a final rule governing the negotiation of agreements for the retransmission of television broadcast stations by MVPDs, established standards for implementing a good faith negotiation requirement of broadcasters to MVPDs, and provided clarification regarding the prohibition against exclusive retransmission consent contracts. In this document we make a non-substantive rule change to correct an error in the publication of § 76.65 of the Commission's rules.

#### Need for Correction

As published, the final regulations contain an error which may prove to be misleading and needs to be clarified.

#### List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

Accordingly, 47 CFR Part 76 is corrected by making the following correcting amendments:

## PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE.

■ 1. The authority citation for Part 76 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. In § 76.65, revise paragraph (c) to read as follows:

#### § 76.65 Good faith and exclusive retransmission consent complaints.

\* \* \* \* \*

(c) Any multichannel video programming distributor aggrieved by conduct that it believes constitutes a violation of the regulations set forth in this section or § 76.64(l) may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in § 76.7.

\* \* \* \* \*

[FR Doc. 03-22201 Filed 8-29-03; 8:45 am]

**BILLING CODE 6712-01-P**

## GENERAL SERVICES ADMINISTRATION

### 48 CFR Parts 538 and 552

[GSAR Case No. 2002-G506; GSAR Change 6]

RIN 3090-AH25

#### General Services Administration Acquisition Regulation; Identification of Products That Have Environmental Attributes

**AGENCIES:** General Services Administration (GSA), Office of Acquisition Policy.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) by revising the clause concerning identification of energy-efficient office equipment and supplies containing recovered materials or other environmental attributes for consistency with the Federal Acquisition Regulation (FAR) and issuance of Executive Order 13101, Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition, and Executive Order 13123, Greening the Government Through Efficient Energy Management.

**DATES:** *Effective Date:* September 2, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ms. Laurie Duarte, Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4225, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Laura Auletta, GSA Acquisition Policy Division, at (202) 208-7279. Please cite GSAR case 2002-G506.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

GSAR 538.273(a)(3) is revised to reflect the new clause title for GSAR clause 552.238-72, "Identification of Products that have Environmental Attributes." The clause has been revised to update environmental definitions and to reflect language consistent with the FAR and with Executive Orders 13101 and 13123. GSA published a proposed rule, Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes, in the **Federal Register** at 65 FR 44508, July 18, 2000. One respondent submitted comments in response to the proposed rule. GSA considered the comments in developing the final rule by revising the clause 552.238-72 to make editorial changes for consistency and clarification with respect to the definition of "energy-efficient product." The clause was also revised to clarify the requirement to identify products designated by the Environmental Protection Agency (EPA) in their Comprehensive Procurement Guidelines (CPGs) that meet EPA purchasing recommendations for recovered and post-consumer material content. These specifically designated products should be identified separate from the umbrella category of products containing recovered materials. The rule includes information on attaching icons to product offerings in GSA *Advantage!* to indicate specific environmental attributes.

**B. Executive Order 12866**

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**C. Regulatory Flexibility Act**

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* These environmental attributes are salient characteristics of the products offered and, therefore, are well known to vendors who market to Government customers required or encouraged to purchase products with specific environmental attributes. Therefore, the identification of such attributes in the offer and other marketing materials such as brochures, catalogs, websites, and GSA *Advantage!* does not constitute a significant economic impact.

**D. Paperwork Reduction Act**

The revised clause at 552.238-72, Identification of Products that have Environmental Attributes, contains an information collection requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). However, the revisions to the clause made by this rule do not affect the information collection requirement approved previously by the Office of Management and Budget (OMB) and assigned OMB Control Number 3090-0262.

**List of Subjects in 48 CFR Parts 538 and 552**

Government procurement.

Dated: August 26, 2003.

**David A. Drabkin,**

*Deputy Associate Administrator, Office of Acquisition Policy.*

■ Therefore, GSA amends 48 CFR parts 538 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 538 and 552 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

**PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING**

■ 2. Amend section 538.273 by revising paragraph (a)(3) to read as follows:

**538.273 Contract clauses.**

(a) \* \* \*

(3) 552.238-72, Identification of Products that have Environmental Attributes.

\* \* \* \* \*

**PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 3. Amend section 552.212-72 by revising the date of the clause; and in paragraph (b) by revising entry 552.238-72 to read as follows:

**552.212-72 Contract terms and conditions required to implement statutes or Executive Orders applicable to GSA acquisition of commercial items.**

\* \* \* \* \*

**Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items (Sept 2003)**

\* \* \* \* \*

(b) \* \* \*

552.238-72 Identification of Products that have Environmental Attributes  
 ■ 4. Revise section 552.238-72 to read as follows:

**552.238-72 Identification of products that have environmental attributes.**

As prescribed in 538.273(a)(3), insert the following clause:

**Identification of Products That Have Environmental Attributes (Sept. 2003)**

(a) Several laws, Executive orders, and Agency directives require Federal buyers to purchase products that are less harmful to the environment, when they are life cycle cost-effective (*see* FAR Subpart 23.7). The U.S. General Services Administration (GSA) requires contractors to highlight environmental products under Federal Supply Service schedule contracts in various communications media (*e.g.*, publications and electronic formats).

(b) *Definitions.* As used in this clause—  
*Energy-efficient product* means a product that—

(1) Meets Department of Energy and Environmental Protection Agency criteria for use of the ENERGY STAR® trademark label; or

(2) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

*GSA Advantage!* is an on-line shopping mall and ordering system that provides customers with access to products and services under GSA contracts.

*Other environmental attributes* refers to product characteristics that provide environmental benefits, excluding recovered materials and energy and water efficiency. Several examples of these characteristics are biodegradable, recyclable, reduced pollutants, ozone safe, and low volatile organic compounds (VOCs).

*Post-consumer material* means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post-consumer material is part of the broader category of "recovered material." The Environmental Protection Agency (EPA) has developed a list of EPA-designated products in their Comprehensive Procurement Guidelines (CPGs) to provide Federal agencies with purchasing recommendations on specific products in a Recovered Materials Advisory Notice (RMAN). The RMAN contains recommended recovered and post-consumer material content levels for the specific products designated by EPA (40 CFR part 247 and <http://www.epa.gov/cpg/>).

*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.

**FOR FURTHER INFORMATION CONTACT:**

Richard Langston at (202) 586-8247 or [richard.langston@pr.doe.gov](mailto:richard.langston@pr.doe.gov).

**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.