

## Prepublication Copy Notice:

The Assistant Administrator for Chemical Safety and Pollution Prevention signed the following *Federal Register* document on September 17, 2015:

Title: **Recommendations for Specifications, Environmental Performance Standards, and Ecolabels for Federal Procurement**

FRL: FRL-9930-38

Docket No.: **EPA-HQ-OPPT-2013-0579**

This is a **prepublication version** of the document that EPA is submitting for publication in the *Federal Register*. While the Agency has taken steps to ensure the accuracy of this prepublication version of the document, **it is not the official version** of the document for purposes of public comment or judicial review. Please refer to the official version of the document that will appear in a forthcoming *Federal Register* publication, which is currently expected to occur within 10 work days of the signature date.

Once the official version of the document publishes in the *Federal Register*, the prepublication version of the document posted on the agency's internet will be replaced with a link to the document that appears in the *Federal Register* publication. At that time, you will also be able to access the on-line docket for this *Federal Register* document at <http://www.regulations.gov>.

For further information about the docket and, if applicable, instructions for commenting, please consult the ADDRESSES section in the front of the *Federal Register* document.

**ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OPPT-2013-0579; FRL-9930-38]**

**Recommendations for Specifications, Environmental Performance Standards, and Ecolabels for Federal Procurement**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This document describes EPA's approach for providing recommendations to federal agencies on specifications, environmental performance standards, and ecolabels for purchasing environmentally preferable products and services. The federal government is one of the world's largest purchasers. This action will help federal agencies purchase environmentally preferable products and services in accordance with Executive Order 13693 and reduce public health and environmental impacts associated with the federal government's extensive supply chain.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:*

Holly Elwood, Chemistry, Economics, and Sustainable Strategies Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, MC 7406M, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; telephone number: 202-564-8854; email address: *elwood.holly@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are a federal purchaser or a

vendor interested in selling to the federal government. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Food providers (NAICS code 722310), e.g., Cafeteria Food Services Contractors, Food Concession Contractors, etc.
- Renovators (NAICS code 33333), e.g., General Building Contractors/Operative Builders, Renovation Firms, Individual Contractors, and Special Trade Contractors like Carpenters, Painters, Drywall Workers and Lathers, “Home Improvement” Contractors, etc.
- Commercial and Institutional Building Construction (NAICS code 236220), e.g., Office Building Construction, Warehouse Construction, etc.
- Drywall and Insulation Contractors (NAICS code 238310), e.g., Acoustical ceiling tile and panel installation, etc.
- Flooring Contractors (NAICS code 238330), e.g., Carpet Installation, Resilient Floor Tile or Sheet Installation, etc.
- Janitorial Services (NAICS code 541620), e.g., Office Cleaning Services, Rest Room Cleaning Services, Washroom Sanitation Services, etc.
- Electronic Computer Manufacturing (NAICS code 334111), e.g., manufacturing machinery or equipment that incorporates electronic computers for operation or control purposes and embedded control applications, etc.
- Computer Systems Design Services (NAICS code 541512), e.g., selling computer hardware or software products and systems from retail-like locations, and

providing supporting services, such as customized assembly of personal computers, etc.

- Consumer Electronics Repair and Maintenance (NAICS code 811211), e.g., Repairing computers and peripheral equipment, etc.

- Office Supplies and Stationary Stores (NAICS code 453210), e.g., retailing stationery, school supplies, and office supplies via electronic shopping, mail-order, or direct sale, printing business forms, retailing new office furniture, etc.

- Packing and Crating (NAICS code 488991), e.g., packing and preparing goods for shipping, etc.

#### *B. How Can I Get Copies of this Document and Other Related Information?*

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-20[XX]- [insert Docket ID no.], is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW, Washington, DC, 20001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www2.epa.gov/dockets>.

## **II. What is EPA's Authority?**

On March 19, 2015, the President issued Executive Order 13693, entitled "Planning for Federal Sustainability in the Next Decade" (80 FR 15871) (Ref. 1). Executive Order 13693 maintains federal leadership in sustainability and greenhouse gas emission reductions. Section 3(i) directs federal agencies to promote sustainable

acquisition and procurement by ensuring that certain environmental performance and sustainability factors are included to the maximum extent practicable in the planning, award, and execution phases of agency acquisitions. Pursuant to Section 3(i)(iii)(A) of the Executive Order, one of the factors directs agencies to purchase environmentally preferable products or services that meet EPA recommendations for specifications, standards, and ecolabels for use in federal procurement. On June 10, 2015, the Office of Federal Sustainability in the White House Council on Environmental Quality (CEQ) issued Implementing Instructions for Executive Order 13693 (Ref. 2). The Implementing Instructions for Executive Order 13693 call on EPA, in consultation with the Office of Management and Budget (OMB) and CEQ, to provide guidance on recommendations for specifications, standards, and ecolabels for use in federal procurement within 90 days of the issuance of the Implementing Instructions.

In addition, the Pollution Prevention Act (PPA) (42 U.S.C.A. 13103(b)(11)) requires EPA to “Identify opportunities to use federal procurement to encourage source reduction” and section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272) requires federal agencies to “use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities.”

### **III. What Action is the Agency Taking?**

This document describes EPA’s approach for providing recommendations to federal purchasers on specifications, environmental performance standards, and ecolabels for environmentally preferable products and services. The federal government is one of the world’s largest purchasers. This action will help federal agencies purchase

environmentally preferable products and services and reduce public health and environmental impacts associated with the federal government's extensive supply chain.

Executive Order 13693 directs federal agencies to promote sustainable acquisition and procurement by ensuring that, to the maximum extent practicable, agencies purchase environmentally sustainable products and services by meeting statutory requirements that require a procurement preference for:

1. Recycled content products designated by the EPA;
2. Energy and water efficient products and services, such as ENERGY STAR® certified and Federal Energy Management Program (FEMP) designated products, identified by EPA and the Department of Energy (DOE); and
3. BioPreferred® and biobased products designated by the U.S. Department of Agriculture (USDA).

The Executive Order further instructs agencies to purchase sustainable products and services identified by EPA programs including:

1. Significant New Alternative Policy (SNAP) chemicals or other alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons, where feasible, as identified by SNAP;
2. WaterSense certified products and services (water efficient products);
3. Safer Choice certified products (chemically intensive products that contain safer ingredients); and
4. SmartWay Transport partners and SmartWay products (fuel efficient products and services).

Federal purchasers can also purchase environmentally preferable products or services that:

1. Meet or exceed specifications, standards, or labels recommended by EPA; or
2. Meet environmental performance criteria developed or adopted by voluntary consensus standards bodies consistent with the NTTAA section 12(d) and OMB Circular A-119.

In 2013, EPA sought comment on *Draft Guidelines for Environmental Performance Standards and Ecolabels for Voluntary Use in Federal Procurement* (Ref. 3).

On March 19, 2015, EPA announced the availability of revised Draft EPA Guidelines and the launch of a pilot to test the Draft EPA Guidelines in three building product categories: furniture; flooring; and paints, coatings and paint removers (Ref. 4). It is expected that the pilot will inform refinements to the Draft EPA Guidelines, and help develop a process by which these Guidelines can be finalized and used to assess standards and ecolabels for use in federal procurement in a wide array of product and service categories.

The Implementing Instructions for the Executive Order direct EPA to prioritize application of the finalized Guidelines to product and service categories which “represent the largest share of procurement spending across Agencies and potential environmental impact” (Ref. 2, page 56).

Until the Draft EPA Guidelines are finalized and applied to key product and service categories, EPA is providing interim recommendations. Federal purchasers should utilize EPA’s Interim Recommendations to select environmentally preferable

products and services. EPA's Interim Recommendations are based on specifications, environmental performance standards, and ecolabels evaluated and currently utilized by federal agencies to assist in their procurement of environmentally preferable products and services. EPA will be initially using specifications, standards and labels information developed by other federal agencies to identify products that have verified sustainability attributes, are readily available in the market, and meet cost and performance needs. EPA's recommendations and further information about the evaluation processes used by these federal agencies will be available at <http://www.epa.gov/greenerproducts> and in the General Service Administration's Green Procurement Compilation at <https://sftool.gov/greenprocurement> (Ref. 5). EPA will review its recommendations periodically and update them after considering other federal agency assessments of standards and ecolabels when they become available. EPA's Interim Recommendations will also be updated to integrate any EPA recommendations developed following finalization and application of the Draft EPA Guidelines to specific product and service categories.

The Implementing Instructions state that "where there is no specification, standard, or label recommended by EPA, an agency may elect to use other open and voluntary standards..." to identify and procure environmentally preferable products and/or services, provided that they have conducted an assessment to ensure that the standard or ecolabel meets the requirements stipulated in the NTTAA, OMB Circular A-119 (Ref. 6), and Section II of the EPA Draft Guidelines or any subsequent revisions to those Guidelines (Ref. 2, page 56). The NTTAA requires that all agencies use standards developed by voluntary consensus standards bodies instead of government-unique



standards unless inconsistent with applicable law or otherwise impractical. OMB Circular A-119 provides guidance on federal use of voluntary consensus standards and on conformity assessment. Because the NTTAA and OMB Circular A-119 do not address environmental performance, the Implementing Instructions point procurement officials to Section II of the EPA Draft Guidelines on Environmental Effectiveness and any subsequent revisions to those Guidelines (Ref. 2, pages 56-57). The Implementing Instructions direct agencies to consult with and share these assessments with EPA, and direct EPA to make these assessments available on its website.

Section 3(l)(i) of Executive Order 13693 includes requirements regarding procurement of environmentally sustainable electronic products. To meet the requirements of sections 3(i)(iii) and 3(l)(i) of the Executive Order, the Implementing Instructions state that agencies must acquire products that meet or exceed the specifications, standards, or labels recommended by EPA as posted on its website. As indicated in the Implementing Instructions, federal purchasers may continue to use the Electronic Product Environmental Assessment Tool (EPEAT) ® product registry, or other methods to identify products that have been third-party verified as having met environmental performance criteria developed or adopted by voluntary consensus standards bodies consistent with section 12(d) of the NTTAA and OMB Circular A-119. However, the Implementing Instructions note that at this time CEQ is not aware of any product registries other than EPEAT for environmentally sustainable electronic products. It is possible that in the future other options may be developed that align with EPA Guidelines and support the electronic stewardship mandates of section 3(l) of Executive Order 13693. Any future tools will have to meet or exceed current levels of sustainable

and environmental performance.

Once the *EPA Draft Guidelines for Environmental Performance Standards and Ecolabels for Voluntary Use in Federal Procurement* are finalized, EPA will apply the Guidelines to product and service categories which “represent the largest share of procurement spending across agencies and potential environmental impact,” per the Implementing Instructions. It is expected that electronics may be in the next group of additional product categories to which the Guidelines could be applied. When the Guidelines are applied to the electronics category, stakeholders will be asked to volunteer other specifications, standards and ecolabels to be reviewed against the Guidelines. EPA will review additional specifications, standards and/or ecolabels to determine if they meet or exceed the current sustainability mandate for electronics and conform to the EPA Guidelines.

#### **IV. References**

The following is a listing of the documents that are referenced in this document. The docket includes these documents and other information considered by EPA, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. The President. Executive Order 13693 of March 19, 2015; Planning for Federal Sustainability in the Next Decade. **Federal Register** (80 FR 15869, March 25, 2015). Available at <http://www.gpo.gov/fdsys/pkg/FR-2015-03-25/pdf/2015-07016.pdf>.

2. The White House Council on Environmental Quality, Office of Federal Sustainability. Implementing Instructions for Executive Order 13693 Planning for

Federal Sustainability in the Next Decade. June 10, 2015. Available at [https://www.whitehouse.gov/sites/default/files/docs/eo\\_13693\\_implementing\\_instructions\\_june\\_10\\_2015.pdf](https://www.whitehouse.gov/sites/default/files/docs/eo_13693_implementing_instructions_june_10_2015.pdf).

3. EPA. Draft Guidelines for Environmental Performance Standards and Ecolabels for Voluntary Use in Federal Procurement; Notice of Availability and Request for Comments. **Federal Register** (78 FR 70938, November 27, 2013; FRL- 9394-7). Available in EPA-HQ-OPPT-2013-0579 at <http://www.regulations.gov>.

4. EPA. Agency Information Collection Activities; Proposed Collection and Comment Request; Assessment of Environmental Performance Standards and Ecolabels for Federal Procurement; Notice. **Federal Register** (80 FR 14372, March 19, 2015; FRL-9923-58). Available at <http://www.gpo.gov/fdsys/pkg/FR-2015-03-19/pdf/2015-06275.pdf>.

5. General Services Administration (GSA) Federal Acquisition Service, Green Procurement Compilation (GPC). Available at <https://sftool.gov/greenprocurement>

6. Office of Management and Budget (OMB). OMB Circular A-119 (Revised). Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities. February 10, 1998. Available at [https://www.whitehouse.gov/omb/circulars\\_a119/](https://www.whitehouse.gov/omb/circulars_a119/).

**Authority:** 42 U.S.C.A. 13103(b)(11), 15 U.S.C. 272 note, and Executive Order 13693 of March 19, 2015.

Dated: September 17, 2015.

James J. Jones,

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*