

**[SWH-FRL-5650-1]****Recovered Materials Advisory Notice;  
Clarification of Floor Tile, Structural  
Fiberboard, and Laminated Paperboard  
Recommendations****AGENCY:** Environmental Protection  
Agency.**ACTION:** Notice.

**SUMMARY:** On May 1, 1995, the Environmental Protection Agency (EPA) issued a Comprehensive Procurement Guideline (CPG) designating items that are or can be made with recovered materials (60 FR 21370, May 1, 1995). Simultaneously, EPA published a Recovered Materials Advisory Notice (RMAN) which included recommendations for purchasing items designated in the CPG (60 FR 21386, May 1, 1995). Today, EPA is providing additional information to assist procuring agencies in determining their obligation to purchase designated items for specific applications. EPA is also clarifying its recommendations for floor tile and its structural fiberboard and laminated paperboard designation to address manufacturers' concerns regarding the specific applications to which the recovered materials content requirements of the CPG should be applied.

**ADDRESSES:** Supporting materials are available for viewing in the RCRA Information Center (RIC), located in Crystal Gateway I, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The Docket Identification Number is F-95-PRMF-FFFFF. The RIC is open from 9:00 am to 4:00 pm, Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15 per page. The index of and some supporting materials are also available electronically. See the "SUPPLEMENTARY INFORMATION" section for information on accessing the materials electronically.

**EFFECTIVE DATE:** November 12, 1996.

**FOR FURTHER INFORMATION CONTACT:** For general information, please contact the RCRA Hotline at 800 424-9346, TDD 800 553-7672 (hearing impaired), or 703 412-9810 (Washington, DC metropolitan area).

For more detailed information regarding the recommendations in today's notice, contact Terry Grist of the Office of Solid Waste at 703 308-7257.

**SUPPLEMENTARY INFORMATION:****I. Purpose**

Last year, in its Comprehensive Procurement Guideline (CPG) promulgated under section 6002 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6962, EPA designated 19 items that are or can be made with recovered materials (60 FR 21370, May 1, 1995). The accompanying Recovered Materials Advisory Notice (RMAN) provided recommendations, including recovered materials content levels, for purchasing the items designated in the CPG (60 FR 21386, May 1, 1995). Since publication of the two documents, EPA has learned that there may be some confusion on the part of procuring agencies as to their obligation to purchase designated items for specific applications. In particular, a floor covering trade association and a manufacturer of interior furnishings that filed petitions for review of two of the CPG's designations have inquired as to the circumstances in which a procuring agency would be required to purchase floor tile and structural fiberboard for use as acoustical ceiling tile. Based on these inquiries, the Agency concluded that it should clarify the obligations of procuring agencies with respect to the purchase of designated items generally as well as the two specific items about which questions have been raised.

**II. Discussion**

RCRA section 6002(e) requires EPA to issue guidelines which designate items that are or can be made with recovered materials and to recommend practices with respect to the procurement of recovered materials and items containing such materials. Executive Order 12873 (58 FR 54911, October 22, 1993) establishes procedures for EPA to follow in carrying out these statutory responsibilities. The order directs EPA to designate items in a Comprehensive Procurement Guideline and to include recommended practices for procuring designated items, including recovered materials content levels within which the items are available, in a Recovered Materials Advisory Notice. EPA has adopted two approaches in its designation of items that are or can be made with recovered materials. For some items, such as floor tiles, the Agency designated broad categories of items and provided information in the RMAN as to their appropriate applications or uses. For other items, such as plastic trash bags, EPA designated specific items, and, in some instances, included in the designation the specific types of recovered materials or applications to which the designation

applies. The Agency explained these approaches to designating items in the preamble to the CPG (60 FR 21373, May 1, 1995).

EPA sometimes had information on the availability of a particular item made with a specific recovered material (e.g., plastic), but no information on the availability of the item made from a different recovered material or any indication that it is possible to make the item with a different recovered material. In these instances, EPA concluded that it was appropriate to include the specific material in the item designation in order to provide vital information to procuring agencies as they seek to fulfill their obligations to purchase designated items composed of the highest percentage of recovered materials practicable. This information enables the agencies to focus their efforts on products that are currently available for purchase, reducing their administrative burden. EPA also included information in the proposed CPG, as well as in the draft RMAN that accompanied the proposed CPG, that advised procuring agencies that EPA is not recommending the purchase of an item made from one particular material over a similar item made from another material. For example, EPA included the following statement in the preamble discussion for plastic desktop accessories (59 FR 18879, April 20, 1994): "This designation does not preclude a procuring agency from purchasing desktop accessories manufactured from another material, such as wood. It simply requires that a procuring agency, when purchasing plastic desktop accessories, purchase these accessories made with recovered materials \* \* \*"

The Agency understands that some procuring agencies may believe that the designation of a broad category of items in the CPG requires them (1) to procure all items included in such category with recovered materials content and, (2) to establish an affirmative procurement program for the entire category of items, even where specific items within the category may not meet current performance standards. This is clearly not required under RCRA as implemented through the CPG and the RMAN. RCRA section 6002 does not require a procuring agency to purchase items with recovered materials content that are not available or that do not meet a procuring agency's specifications or reasonable performance standards for the contemplated use. Further, section 6002 does not require a procuring agency to purchase such items if the item with recovered materials content is only available at an unreasonable price or the purchase of such item is inconsistent with maintaining a reasonable level of competition. However, EPA stresses that, when procuring any product for which a recovered materials alternative is available that meets the procuring

agency's performance needs, if all other factors are equal (e.g., price), section 6002 requires the procuring agency to purchase the product made with highest percentage of recovered materials practicable.

### III. Floor Tiles

In the CPG, EPA designated floor tiles and patio blocks containing recovered rubber or plastic (40 CFR 247.12(e)). The Agency designated these items as broad categories of items, encompassing many different applications. In making its determination to designate floor tiles, EPA was unable to identify any specifications that preclude the use of recovered materials in the manufacture of floor tiles. In the RMAN, the Agency recommended that procuring agencies purchase floor tiles with specified minimum recovered rubber or plastic content for "heavy duty/commercial type" applications only. EPA limited the recommended applications to heavy-duty/commercial-type uses because, at the time the CPG was issued, the Agency was not aware of any manufacturers that made floor tile with recovered materials for standard office flooring. Therefore, the Agency elected to broadly designate floor tiles and limit its initial recommendations to heavy-duty/commercial type uses.

#### A. Questions Raised

The concerns expressed by the petitioners regarding EPA's floor tile designation are twofold. First, they claim that the Agency, at a minimum, should have limited the floor tile designation to "specialty purpose" applications and should have specifically excluded standard office flooring. Second, the manufacturers contested EPA's use of the term "heavy-duty, commercial-type" in the RMAN to describe the recommended applications to which the floor tile designation applies. In addition, manufacturers were concerned about the ability of "heavy-duty, commercial type" floor tiles recommended by EPA to meet applicable American Society for Testing and Materials (ASTM) and federal government performance standards for these products.

#### B. Recommended Applications

EPA used the term "heavy-duty, commercial-type uses" because there were no published industry-wide definitions to describe the applications to which the recovered materials requirements of the CPG should be applied. In the supporting analysis for RMAN, EPA explained what it meant by "heavy-duty, commercial-type applications." There, the Agency

described, in general terms, a number of commercial and industrial settings where the use of the type of tiles available with recovered materials content would be appropriate. These would include entranceways in airports and stores, furniture showrooms, skating rinks and fitness centers. EPA has learned that this discussion may have caused some confusion. Some procuring agencies may have confused EPA's description of the areas where, given special circumstances, such tiles could be used, with an EPA recommendation that such tile should always be used in such settings. This was not the Agency's intention. Therefore, the Agency is today clarifying that tiles with the characteristics of those tiles manufactured with recovered materials content may only be appropriate for specialty purpose uses at such locations (e.g., raised, open-web tiles for drainage on a portion of school kitchen flooring). Such specialty purpose uses involve limited flooring areas where grease, tar, snow, ice, wetness or similar substances or conditions are likely to be present. Thus, EPA is not recommending floor tile made with recovered materials for standard office or more general purpose uses. In particular, the preamble to the CPG states that: "EPA is not aware of any floor tiles containing recovered materials being used in standard office flooring applications" (60 FR 21376, May 1, 1995).

#### C. Performance Standards

Regarding the ability of floor tiles to meet applicable American Society for Testing and Materials (ASTM) and federal government performance standards, EPA has specifically noted that it does not have substantive information indicating that available tiles with recovered materials content meet these standards. As a result, the Agency is plainly not recommending that procuring agencies purchase recovered materials content floor tile or establish an affirmative procurement program where its use is not appropriate under the criteria set forth in RCRA section 6002 (c)(1) (e.g., fails to meet performance standards for a particular use, is not available at a reasonable price, is not available within a reasonable period of time, is not available from an adequate number of sources).

#### D. EPA Comments on Federal Acquisition Regulations

As a result of the confusion over the floor tile recommendations, EPA submitted comments to the Civilian Agency Acquisition Council (CAAC)

and the Defense Acquisition Regulations Council (DARC) on the interim rule amending the Federal Acquisition Regulation (FAR) (60 FR 28494, May 31, 1995). The FAR interim rule incorporates, among other environmentally-related procurement policies, the requirements set forth in RCRA section 6002. The comments submitted by EPA recommend a clarification to the FAR to make it clear that procuring agencies do not need to document their decision to purchase items for which EPA has not included purchase recommendations in an associated RMAN. Thus, if the CAAC and the DARC adopt this recommendation, procuring officers would not be required to document their decision not to purchase recovered materials content floor tile for standard office or general purpose uses.

### IV. Structural Fiberboard and Laminated Paperboard

In the CPG, EPA designated structural fiberboard and laminated paperboard products for applications other than building insulation. EPA further included acoustical and non-acoustical ceiling tiles and lay-in panels in its list of applications to which the designation applies. Since the CPG was issued, one manufacturer of mineral fiber ceiling products has expressed concern over the scope of the structural fiberboard and laminated paperboard designations, particularly as they apply to acoustical and non-acoustical ceiling tiles and lay-in panels. EPA wants to clarify that the specific applications included in the structural fiberboard and laminated paperboard designation, i.e., building board, sheathing, shingle backer, sound deadening board, roof insulating board, insulating wallboard, acoustical and non-acoustical ceiling tile, acoustical and non-acoustical lay-in panels, floor underlayments, and roof overlay (coverboard), apply to the purchase of cellulosic fiber structural fiberboard and laminated paperboard products only. The listed applications, and therefore the designation, do not apply to products made from other similar or competing materials. In other words, if a procuring agency is purchasing a cellulosic fiberboard acoustical ceiling tile, then section 6002 requires the agency to purchase the ceiling tile made with recovered materials. However, if the agency prefers to purchase a ceiling tile made with mineral fiber rather than fiberboard, it is free to do so. In the latter instance, there is no requirement to purchase a cellulosic fiberboard ceiling tile. Further, as discussed in section III(D) above, if the CAAC and the DARC adopt the comments

submitted by EPA on the amendments to the Federal Acquisition Regulation, procuring officers would not be required to document their decision not to purchase recovered materials content acoustical ceiling for general purpose ceiling uses.

#### V. Supporting Information and Accessing Internet

Supporting analyses are available on the EPA Public Access Server, which you can access via the Internet. Follow these instructions to access the information electronically:

WWW: <http://www.epa.gov/epaoswer>

Gopher: <gopher.epa.gov>

Dial-up: 919 558-0335

If you are using the gopher or direct dialup method, once you are connected to the EPA Public Access Server, choose the following path: EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste (RCRA)/[Non-Hazardous Waste—RCRA Subtitle D/Procurement/RMAN].

FTP: <ftp.epa.gov>

Login: anonymous

Password: your Internet address

Files are located in /pub/gopher/OSWRCRA.

Dated: November 5, 1996.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 96-28909 Filed 11-8-96; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Approved by Office of Management and Budget

November 5, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Public Law 96-511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Dorothy Conway, Federal

Communications Commission, (202) 418-0217.

Federal Communications Commission

OMB Control No.: 3060-0258.

Expiration Date: 10/31/99.

Title: 90.176 Interservice Sharing of Frequencies in the 150-174 MHz Bands.  
Form No.: N/A.

Estimated Annual Burden: 2,100 annual hour; average 2 hours per respondent; 1,050 respondents.

Description: The reporting requirement contained in Section 90.176 is necessary to determine if interservice sharing is in the public interest in a particular case. The applicant is required to submit information that such sharing is necessary and that interference will not result to the primary users of the frequency that is being requested. This information is collected only once, upon initial application for a license.

OMB Control No.: 3060-0219.

Expiration Date: 10/31/99.

Title: 90.49(b) Communications Standby Facilities Special  
Form No.: N/A.

Estimated Annual Burden: 150 annual hours; .75 hour per respondent; 200 respondents.

Description: The reporting requirement contained in Section 90.49(b) is necessary to ensure that a communications common carrier requesting private radio service frequencies to be used as a standby facility for carrying safety related communications when normal common carrier circuits are inoperative due to circumstances beyond the control of the carrier are necessary for the protection of life and property. This information is collected only once, upon initial application for a license.

OMB Control No.: 3060-0435.

Expiration Date: 10/31/99.

Title: 80.361 Frequencies for narrow-band direct-printing (NB-DP) and data transmission.

Form: N/A.

Estimated Annual Burden: 4 total annual hours; average 2 hours per respondent; 2 responses.

Description: The reporting requirement contained in Section 80.361 is necessary to require applicants to submit a showing of need to obtain new or additional narrow-band direct printing (NB-DP) frequencies. Applicants for new or additional NB-DP frequencies are required to show the schedule of services of each currently licensed or proposed series of NB-DP frequencies and to show a need for additional frequencies based on at least 40% usage of existing NB-DP frequencies. The information is used to

determine whether an application for NB-DP frequency should be granted.

OMB Control No.: 3060-0740.

Expiration Date: 10/31/99.

Title: Disclosure Policies—Section 95.1015.

Form: N/A.

Estimated Annual Burden: 203 total annual hours; average 1 hour per respondent; 203 respondents.

Description: This collection of information is made necessary by the amendments of the Commission's Rules regarding the Low Power Radio and Automated Maritime Telecommunications System (AMTS) operations in the 216-217 MHz band. The reporting requirement is necessary to ensure that television stations that may be affected by harmful interference from AMTS operations are notified. The information will be used by the Commission staff and the affected television stations to locate potential harmful interference from AMTS operations.

OMB Control No.: 3060-0700.

Expiration Date: 10/31/99.

Title: Implementation of Section 302 of the Telecommunications Act of 1996, Open Video Systems CS Docket 96-46.

Form: FCC 1275.

Estimated Annual Burden: 4,570 total annual hours; average 2-8 hours per respondent; 3,762 respondents.

Description: The information collection requirements contained in this order are necessary to implement the statutory provisions for Open Video Systems contained in the Telecommunications Act of 1996. Section 302 of the 1996 Act provides for specific entry options for telephone companies wishing to enter the video programming marketplace, one of which is to provide cable service over an "open video system" (OVS).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-28874 Filed 11-8-96; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the