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FEDERAL PROCUREMENT

Government Agencies' Purchases of Recycled- Content Products

Statement for the Record by
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Mr. Chairman and Members of the Committee:

We are pleased to discuss the results of our work on the federal government's purchase of recycled products. As you know, the federal government buys about \$200 billion of products and services each year to conduct its operations. Through its purchasing decisions, the federal government has the opportunity to affirm goals for preventing pollution, reducing solid waste, increasing recycling, and stimulating markets for environmentally preferable products and services.

Recognizing this potential, the Congress, in the Resource Conservation and Recovery Act of 1976 (RCRA), directed the Environmental Protection Agency (EPA) to identify products made with recycled waste materials or solid waste by-products and to develop guidance for purchasing these products. The act also requires procuring agencies to establish programs for purchasing these products. Procuring agencies, which can include contractors and state and local government grantees, are exempt from this requirement only under certain conditions and must document their reasons for not purchasing the recycled-content products. The Office of Federal Procurement Policy, in the Office of Management and Budget (OMB) is responsible for coordinating the RCRA requirements with other federal procurement policies, and for reporting to the Congress every 2 years on federal agencies' progress in implementing these requirements.

This statement is based on our June 2001 report entitled *Federal Procurement: Better Guidance and Monitoring Needed to Assess Purchases of Environmentally Friendly Products* (GAO-01-430). Specifically, my statement discusses federal agencies' (1) purchases of recycled-content products and (2) efforts to promote awareness of recycled-content products. In preparing the report, we surveyed the four agencies that account for about 85 percent of all federal procurements—the departments of Defense and of Energy, the General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA)—and two major grant-awarding agencies—the departments of Transportation and of Housing and Urban Development.

In summary:

- Twenty-five years after RCRA was to launch a revolution in federal purchases of recycled-content products, the success of this effort is largely uncertain. EPA accelerated its designation of recycled-content products in the 1990s—the agency had identified 54 products with recycled content at the time of our report. However, we could not determine the extent to which the large procuring agencies purchase these products because most lack reliable and complete data on such purchases. The agencies lack data primarily because their procurement systems are generally not designed to track these purchases—particularly those made through contracts (which account for at least 90 percent of federal procurement dollars); with federal purchase cards (used like credit cards); or by grantees.
- While procuring agencies acknowledged that EPA’s designation of recycled-content products, by itself, is not sufficient to ensure that the products are purchased, their efforts to promote awareness have been limited. The agencies told us that their staff members often are either not aware of these products or not able to locate them in their areas. In addition, the agencies have made little effort to ensure that grantees are aware of their obligations to purchase recycled-content products, and most do not have any reliable means of even identifying contracts that call for the use of these products. Furthermore, in the absence of credible data on purchases, the agencies have not put programs in place to review and monitor their progress in complying with the RCRA requirements.

Our report made a number of recommendations to improve the agencies’ programs to purchase EPA-designated recycled-content products. In October 2001, OMB responded to our recommendations. Regarding our recommendations for additional guidance to federal agencies, OMB stated that it is reviewing its current reporting requirements and plans to issue more specific guidance as necessary. As of July 2002, it had not issued additional guidance. In response to our recommendations, effective October 1, 2001, OMB has added a new data field to its procurement data information system to collect

information on the procurement of EPA-designated products for contracts of \$25,000 or more. This new field allows agencies for the first time to measure their contractors' purchasing of recycled-content products. Although OMB anticipated that this information would significantly improve compliance and reduce agency administrative burdens, it still does not provide complete information on agencies' purchases of these products because it does not include purchases from federal purchase cards or grantees. Finally, as we recommended, OMB agreed to consider incorporating the RCRA requirements into the common rule the next time it updates the rule.¹ (It has not set up a time frame for updating the rule.) In addition, a Federal Environmental Executive official told us that as of July 2002, neither his organization nor EPA had developed a process to provide agencies with current information on the availability, or how to more effectively promote, the purchase of recycled-content products.

Background

The use of federal procurement to promote environmental goals has gained increasing emphasis since the 1976 RCRA legislation. RCRA section 6002 requires each procuring agency² that purchases more than \$10,000 of an item (in a fiscal year) that EPA has designated as available with recycled content to have an affirmative procurement program in place to ensure that the agency purchases recycled-content products to the maximum extent practicable. This requirement applies both to purchases made directly by the agency and to purchases made indirectly by their contractors and grantees.

To comply with RCRA, an agency's affirmative procurement program must consist of four elements: (1) a preference program that requires the agencies to institute practices and procedures favoring the specification and procurement of recycled-content products; (2) an internal and external promotion program to actively promote the purchase program for recycled-content products; (3) procedures for obtaining pre-award estimates, and post-award certifications of recovered materials content in the products

¹ The common rule is a set of governmentwide rules and conditions under which grants to state and local governments are administered.

² Procuring agencies are federal agencies, state and local agencies using appropriated federal funds, and their contractors.

to be supplied under any contracts over \$100,000 and, where appropriate, reasonably verifying those estimates and certifications; and (4) procedures for monitoring and annually reviewing the effectiveness of the affirmative procurement program to ensure the use of the highest practicable percentage of recycled-content materials available.

A 1998 executive order strengthened the RCRA requirements. Specifically, the order clarified some existing requirements and defined more clearly the duties of the Federal Environmental Executive—who is appointed by and reports to the President—and the responsibilities of agency environmental executives in implementing certain initiatives and actions to further encourage the “greening” of the government through federal procurement. A change to the Federal Acquisition Regulations (FAR) formalized the 1998 executive order by making it a requirement for all executive agencies and contracting officers to follow when buying products, including supplies that are furnished under a service contract. The changes to the FAR also emphasized policies to purchase products containing recycled-content material and other environmentally preferable products and services when feasible.³

Federal agencies must also comply with acquisition reform legislation enacted during the 1990s. In response to concerns about the government’s ability to take advantage of the opportunities offered by the commercial marketplace, these reforms streamlined the way that the federal government buys its goods and services. For example, the reforms introduced governmentwide commercial purchase cards, (known as federal purchase cards) similar to corporate credit cards, to acquire and pay for goods and services of \$2,500 or less.⁴

The Office of the Federal Environmental Executive has overarching responsibilities to advocate, coordinate and assist federal agencies in acquiring recycled-content products

³The FAR specifies rules that agencies must follow in their procurement actions. On June 6, 2000 the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council published a final rule amending the FAR to implement Executive Order 13101, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, dated September 14, 1998.

⁴ The Federal Acquisition Streamlining Act of 1994 required federal agencies to enter into multiple award contracts and introduced the micro-purchase threshold for purchase cards up to \$2,500. The Clinger-Cohen Act of 1996 allowed agencies to authorize more employees to make purchases up to \$2,500.

and services. In 1999, a White House task force chaired by the Federal Environmental Executive issued a strategic plan that calls upon all executive agencies to demonstrate significant increases in the procurement of recycled-content products from each preceding year through 2005. Each agency's environmental executive is responsible for overseeing the implementation of the agency's affirmative procurement program and for setting goals to increase purchases of recycled-content products in accordance with the strategic plan. The Federal Environmental Executive prepares a biennial report to the President on agencies' actions.

Although all procuring agencies are required to have an affirmative procurement program and to track their purchases of recycled-content products, the Office of Federal Procurement Policy and the Office of the Federal Environmental Executive—who coordinate their information requests—require annual purchase reports only from the top six procuring agencies. These six agencies are the departments of Defense, Energy, Transportation, and Veterans Affairs; GSA; and NASA. The Office of Federal Procurement Policy and the Office of the Federal Environmental Executive issue a joint report to the Congress every 2 years on these agencies' progress in purchasing the EPA-designated products.

Federal Purchases of Recycled-Content Products Could Not Be Determined Because of Incomplete Information

While EPA accelerated its efforts in the 1990s to identify and issue guidance on procuring products with recycled content, we could not determine the extent to which the four major federal procuring agencies purchase these products because their procurement systems do not clearly identify purchases of recycled-content products. In addition, the agencies do not receive complete data from their headquarters and field offices or their contractors and grantees. As a result, these agencies generally provide estimates, not actual purchase data, to the Office of Federal Procurement Policy and the Office of the Federal Environmental Executive. According to three of the four agencies—including Defense, which accounts for over 65 percent of federal government

procurements⁵—even these estimates are not reliable. In addition, agencies’ efforts to promote awareness of purchase requirements for recycled-content products have had limited success, and their efforts to monitor progress have principally relied on the estimated data they report. A White House task force made a number of recommendations to improve data collection, particularly from federal purchase card users and contractors. One of these recommendations—adding a new data field that tracks the purchases of recycled content products from the agencies’ contractors—was instituted in the fall of 2001. However, it does not include federal purchase card users, grantees, or the agencies themselves.

EPA Has Accelerated the Designation of Products With Recycled Content

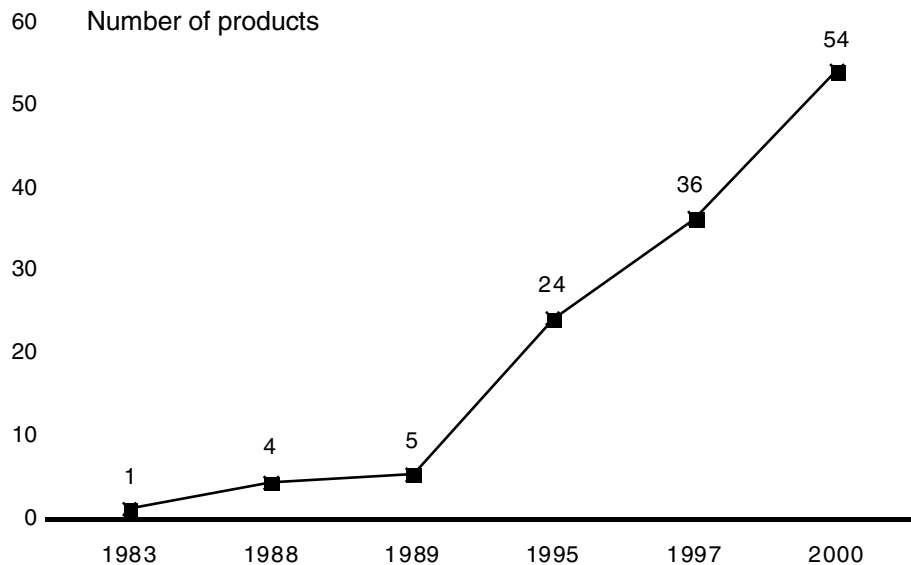
In the early 1980s, the Congress directed EPA to issue guidance for five products with recycled content, three of which the Congress designated: cement and concrete containing fly ash,⁶ recycled paper and paper products, and retread tires. Between 1983 and 1989, EPA issued guidance for these three products and for re-refined lubricating oil and building insulation.⁷ EPA did not issue guidance for any more products until 1995. Between 1995 and 2000, EPA increased the total number of designated products to 54 and issued comprehensive procurement guidance to use in purchasing these products. Figure 1 shows the increases in the number of designated products with recycled content.

⁵ This figure includes all Defense procurements—including weapons systems and research and development funds, which are unlikely to include the purchase of recycled-content products. The figure also includes service contracts—which may or may not involve the purchase of these products.

⁶ Fly ash is the residue that results from the combustion of pulverized coal.

⁷ U.S. General Accounting Office, *Solid Waste: Federal Program to Buy Products With Recovered Materials Proceeds Slowly*. GAO/RCED-93-58 (Wash., D.C.: May 17, 1993).

Figure 1: EPA's Designation of Recycled-Content Products, 1983 through 2000.



EPA has identified eight categories of recycled-content products. These are listed below, with examples of products in each category.

- **Construction products:** Building insulation containing recycled paper or fiberglass; carpeting containing recycled rubber or synthetic fibers; floor tiles made with recycled rubber or plastic.
- **Landscaping products:** Landscaping timbers and posts containing a mix of plastic and sawdust or made of fiberglass; hydraulic mulch containing paper; compost made from yard trimmings and/or food waste.
- **Nonpaper office products:** Trash bags containing recycled plastic; waste receptacles containing recycled plastic or steel; and binders containing recycled plastic or pressboard.
- **Paper and paper products:** Copier paper, newsprint, file folders, and paper towels and napkins, all of which have recycled fiber content.
- **Park and recreation products:** Picnic tables and park benches containing recycled plastics or aluminum; playground equipment containing recycled plastic or steel; fencing using recycled plastic.

- **Transportation products:** Parking stops containing recycled plastic or rubber; traffic barricades containing steel or recycled fiberglass; traffic cones containing recycled PVC or rubber.
- **Vehicular products:** Engine coolants (antifreeze), re-refined motor oil and retread tires, all of which contain recycled content materials.
- **Miscellaneous products:** Awards and plaques containing glass, wood or paper; drums containing steel or plastic; signs and sign posts containing plastic, steel, or aluminum.

EPA officials have also identified 11 additional recycled content products for designation and expect to issue purchasing guidelines for them in the fall of 2002. According to EPA officials, the list of possible products continues to evolve because new products are always being developed and existing products may be changed, adding more recycled material.

However, the four major procuring agencies said that the list contains more items than they can feasibly track the purchases of and that targeting their tracking efforts on the major items they purchase would be a better use of their resources. The four agencies also told us that it is costly and burdensome to update their tracking programs each time EPA adds new items and to document whether or not their purchases of these products meet the \$10,000 threshold. Defense and GSA officials added that instead of continuing to add products to the designated list, EPA should work with the agencies to assist them in buying products already identified. Specifically, they said that (1) EPA should provide more information on the availability of the individual products, since listed products may not be available in all regions of the country; and (2) EPA should identify the manufacturers and costs of the recycled-content products and take the lead in promoting them, thus making it easier for federal agencies to buy these products. Officials at the Office of the Federal Environmental Executive agreed with Defense's and GSA's assessment regarding purchasing difficulties.

Information on Agencies' Purchases of Products With Recycled-Content is Largely Unavailable

Three of the four major procuring agencies generally do not provide credible and complete information on their purchases of recycled-content products because (1) they do not have automated tracking systems for these products and (2) the information they do collect and report does not include a significant portion of their procurements, such as those made by contractors.

Agencies Lack Automated Tracking Systems for Recycled-Content Products

Defense, GSA, and NASA reported that they cannot use their automated procurement systems to track recycled-content products purchased by officials in their headquarters and field offices and by their contractors and grantees. As a result, they collect information manually, a process they find costly and time-consuming. This is particularly the case for agencies with large field structures such as Defense. Defense and GSA reported that they can electronically track recycled-content products purchased from their automated central supply systems, which also records purchases made by other agencies, if the products are included in Defense and GSA stock inventories. The systems do not track items purchased from vendor lists.

According to Defense and GSA officials, recent improvements to these central supply systems include electronic catalogues of environmentally friendly products linked to an automated shopping system, which will allow the agencies to better track and report on other agencies' purchases of recycled-content products.

NASA and Energy offices also manually collect purchase data on recycled-content products but enter the information into automated systems for tracking and reporting. However, they have not integrated these automated systems with their agencywide procurement systems. Despite this lack of integration, Energy officials indicated that with their current tracking system, they are able to determine the extent to which most of their offices and contractors are purchasing recycled-content products. NASA officials reported that their system provides more limited data on some contractors.

Defense and GSA officials acknowledged that their data collection would improve if they had on-line electronic systems for recycled-content products linked to agencywide procurement systems. However, the additional cost of developing such an integrated system would not be worthwhile, according to these officials. For example, Defense believes that the cost of developing and maintaining a reliable system to produce the data needed to comply with current reporting requirements would far exceed the value of the information produced.

Major Purchase Sources are Excluded From the Agencies' Reports

The data the agencies collect and report to the offices of Federal Procurement Policy and of the Federal Environmental Executive generally exclude several sources of information. First, data are excluded regarding federal purchase card acquisitions, which are increasing and as of fiscal year 2001 accounted for about 5.5 percent of all federal purchases. The four procuring agencies reported that they cannot track federal card purchases of recycled-content products made in the private sector, such as desk accessories, tires, and lubricating oil, unless they establish an internal system that relies on the card users to keep records. Defense and GSA reported that they do not have such systems. Defense officials noted that requiring purchase card users to keep logs is in conflict with acquisition reforms intended to simplify the procurement process for purchases below \$2,500 (micropurchases).⁸ Energy and NASA officials stated they do track and report purchases of recycled-content products through federal purchase cards and have established processes for staff to keep records for entry into their database for the recycled content program.

Second, the agencies' data are also incomplete because they may exclude information on purchases made by some of their component organizations. For example, Defense reported that the military services provide mostly estimated data, which they do not verify to determine accuracy and completeness. Furthermore, these estimates do not

⁸ The use of federal purchase cards was encouraged in 1993 by the National Performance Review, which identified the purchase card as a major acquisition reform and recommended that all federal agencies increase their use of the card to cut the red tape normally associated with the federal procurement process.

include all of the services. For example, the Army provided no information for Defense's report to the Office of Federal Procurement Policy and the Office of the Federal Environmental Executive for fiscal years 1998 and 1999, and the Air Force and Navy provided limited purchase data. The lack of reliable data from Defense is of particular concern in evaluating the effectiveness of the RCRA program because Defense's procurements account for over 65 percent of total federal procurements reported for fiscal year 1999. Defense reported that it purchased recycled-content products worth about \$157 million out of total fiscal year 1999 procurements of about \$130 billion. (The total fiscal year procurement figure of \$130 billion includes \$20 billion for research and development and \$50 billion for major weapons systems that are unlikely to involve the procurement of recycled-content products. In addition, it includes \$53 billion for service contracts that may or may not involve the purchase of recycled-content products. Defense officials indicated that some of these figures may overlap.)

Third, the agencies lack complete data on purchases made by contractors and grantees. This data gap is potentially significant because contracts over \$25,000 account for almost 90 percent of all federal procurements. The agencies reported the following: Defense has no information on contractors' purchases; GSA has limited information on some contractors' purchases; Energy, which spends about 94 percent of its appropriations on contractors, collects purchase information from about 86 percent of its contractors; and NASA collects purchase data from on-site contractors but receives little or no data from off-site contractors.

Fourth, the agencies lack data on grantee purchases. State and local agencies receiving federal grants may be "procuring agencies" under RCRA. If they meet the \$10,000 threshold – that is, if they spend more than \$10,000 on a designated item – they are subject to the affirmative procurement program requirement and to buying the recycled-content products on EPA's list. However, grantees are not required to report their purchases of EPA-designated products with recycled content. Also, executive orders do not apply to grantees. Because of overall federal efforts to reduce the paperwork (reporting) burden on grantees, federal agencies stated that they cannot request

information from grantees without OMB approval. Consequently, six of the agencies we reviewed, including the major grant-making agencies—DOT and HUD—reported that they do not obtain any information on grantees' purchases.

A White House task force workgroup on streamlining and improving reporting and tracking, cochaired by the Federal Environmental Executive and OMB's Office of Federal Procurement Policy, has made a number of recommendations to improve data collection from federal purchase card users and contractors. Aside from instituting additional data requirements, the task force is planning to begin a pilot project with banks and willing vendors to identify and report recycled-content products purchases made with federal purchase cards. However, as of July 2002, it is not sure when this effort will begin. We believe that this effort would provide useful additional information regarding purchase card users' compliance with the RCRA requirements.

With respect to contractors, the workgroup recommended revising the Federal Procurement Data System—a system that collects information on procurements on a governmentwide basis for contracts over \$25,000.¹⁰ The revised data system would require the procuring official to indicate whether the contract includes (1) recycled-content products, and (2) appropriate language from the FAR to ensure that the contractor is notified of the requirements with respect to purchasing recycled-content products. If these changes are implemented, the agencies will no longer have to manually collect and report on their individual purchases of recycled-content products. Although the revised system will not provide information on the products themselves or of the dollar amount associated with them, it would allow agencies for the first time to identify contracts subject to recycled-content product purchases and to measure their annual progress in increasing the percentage of contracts containing affirmative procurement clauses.

⁹ GSA reported that it does not administer any grants.

¹⁰This data system, operated by GSA on behalf of the Office of Federal Procurement Policy, has been in operation since 1978. It has undergone numerous changes over the years and is considered to be outdated. A multiagency task force is currently considering replacing this system.

Agencies' Efforts to Promote Recycled-Content Products Have Generally Not Increased Awareness

The four major procuring agencies reported efforts to promote awareness of the requirement to purchase recycled-content products, but several studies indicate that the success of these efforts has been limited. In addition, although RCRA requires federal agencies to review and monitor the effectiveness of their RCRA program efforts, only Energy has taken any steps beyond the data collection efforts discussed earlier.

Success of Promotion Efforts Is Limited

Studies of the agencies' affirmative procurement programs report that the agencies are not effectively educating procurement officials about the requirement to buy EPA-designated recycled-content products. This lack of awareness is a major or contributing factor to inaccurate data and noncompliance with implementing affirmative procurement programs, according to our survey of the agencies, as well as the reports by the GSA and NASA inspectors general, the Air Force's Internal Audit Agency, and a fiscal year 2000 EPA survey of 72 federal facilities.¹¹

Efforts to promote the purchase of recycled-content products by government agencies, their contractors, and grantees can occur government- or agency-wide. Governmentwide efforts include those conducted by the Office of the Federal Environmental Executive, which actively promotes, coordinates, and assists federal agencies' efforts to purchase EPA-designated items. For example, the Office of the Federal Environmental Executive has helped increase agency purchases of EPA-designated products by encouraging GSA, the Defense Logistics Agency, and the Government Printing Office to automatically substitute recycled-content products in filling orders for copier paper (began in 1992) and lubricating oil (began in 1999). This effort has increased sales of recycled-content copier paper from 39 percent to 98 percent at GSA and the Government Printing Office,

¹¹ The three audits include the NASA Inspector General *Final Report on the Audit of Kennedy Space Center's Recycling Efforts*, IG-98-017, dated June 12, 1998; the GSA Inspector General Report entitled *Review of GSA's Affirmative Procurement Program*, A71503/P/5/R97016, dated March 28, 1997; and an Air Force Audit Agency 's report on its Affirmative Procurement Program, Project Number 99052016, June 1999.

according to the Office of the Federal Environmental Executive. GSA now carries only recycled-content copier paper. The Defense Logistics Agency reported that its sales of re-refined lubricating oil increased over 50 percent from fiscal year 1999 to fiscal year 2000. Given the success of the automatic substitution program for these products, the Office of the Federal Environmental Executive is strongly encouraging agencies to identify other recycled-content products for which automatic substitution policies might be appropriate. However, this program does not apply to purchases made outside of the federal supply centers.

GSA and Defense have also placed symbols in their printed and electronic catalogues and in their electronic shopping systems to identify recycled-content products. Using the electronic catalogue, agencies can then go directly into the electronic shopping system to order these products. They will also be able to track and report these purchases. Defense and GSA are also working jointly to modify the Federal Logistics Information System to add environmental attribute codes to the products listed in that system to more easily identify environmentally friendly products.¹² The modification's usefulness may be limited, however, because this system does not automatically link the user to a system for purchasing the products identified, according to agency officials.

Energy, GSA, and Defense's Air Force, Navy, and Army Corps of Engineers have initiated alternative efforts to inform contractors of the requirement to purchase recycled-content products. Energy makes its major facility management contractors part of its affirmative procurement program team to help implement the program. Moreover, in May 2000, Energy established "green acquisition advocates" at each of its major contracting facilities. Among their duties, these advocates are to promote the RCRA program to the contractors. GSA and the three Defense components have developed "green" construction and/or lease programs that promote the use of EPA-designated products. In addition, all the agencies we reviewed have incorporated the FAR clauses pertaining to

¹² The Federal Logistics Information System is a computerized database that serves as a centralized, federal-wide repository for information on the more than 7 million items in the federal supply system. In addition to showing the name and national stock number for each item, the system provides vendor information, the item's physical characteristics, and guidance on acquiring, storing, distributing, transporting, using, and disposing of the item. Procurement officials use the system primarily to research which items are most appropriate for them to purchase.

the RCRA program into their contracts. GSA also reported that it plans to modify its acquisition manual to include a review of the list of EPA-designated products with contractors in post-award conferences.

The agencies we examined have generally not developed agency-specific mechanisms for advising grantees of their responsibility to purchase recycled-content products. Instead, they rely on OMB Circular A-102. This circular refers to RCRA and contains a general statement on the requirement for grantees to give preference in their purchases to the EPA-designated products. It does not inform them of the specific requirements they need to follow, such as developing affirmative procurement programs. Only Energy, in its financial assistance regulations, requires its grant-making program offices to inform grantees of the RCRA requirement.

Agencies' Review and Monitoring of Recycled Content Purchases Is Limited

RCRA requires federal agencies to review and monitor the effectiveness of their recycled-content programs; however, it does not define what review and monitoring should consist of. With the exception of Energy, which has established purchasing goals that its contractors must meet, the major procuring agencies limit their required annual review and monitoring functions to compiling data on their purchases of recycled-content products in order to report to the offices of the Federal Environmental Executive and Federal Procurement Policy. But as the agencies admit, these data are unreliable and incomplete. Consequently, these data do not allow the agencies to assess their progress in purchasing recycled-content products or review the effectiveness of their recycled content purchase programs. However, Defense procurement officials believe that legislation like RCRA, because of its review and monitoring requirements, is in conflict with the streamlining reforms that are intended to ease the administrative burden associated with government purchases.

We recognize that demonstrating that an agency is meeting RCRA requirements can be administratively difficult. The major procuring agencies noted that it is costly and burdensome to update their purchase tracking programs each time EPA designates

recycled-content products; each relies on costly and time-consuming manual data collection. Defense, the largest procuring agency, believes efforts to monitor and report on recycled-content product purchases conflict with the streamlining goals of procurement reform. However, RCRA requires such information.

Contact and Staff Acknowledgement

For further information on this testimony, please call me at (202) 512-6878 or Pat Gleason at (202) 512-6946. Maureen Driscoll, William Roach Jr., and Paul Schearf also made key contributions to this testimony.