

Final Rule Published on Biobased Purchasing

by Cynthia Vallina, Office of Federal Procurement Policy

In the January 11, 2005 issue of the *Federal Register*, the United States Department of Agriculture (USDA) published a final rule establishing the framework for the federal biobased purchasing program, as required by the Farm Security and Rural Investment Act of 2002 (Farm bill).

Similar to the Resource Conservation and Recovery Act (RCRA) Section 6002 requirements for recycled products, section 9002 of the Farm Bill requires federal agencies to develop an affirmative procurement program (APP) that contains a biobased products preference program, a promotion program and review and monitoring. The purpose of these APPs is to:

- Improve demand for biobased products
- Spur development of value-added agricultural processing and manufacturing in rural communities
- Enhance the nation's energy security by substituting domestically produced biobased products for fossil energy-based products

Also similar to RCRA 6002, federal agencies must purchase the designated biobased items unless they are not reasonably available, fail to meet applicable performance standards or are available only at an unreasonable price. The Office of Federal Procurement Policy (OFPP) and USDA are currently working to implement these requirements into the Federal Acquisition Regulation (FAR). FAR case #2004-032 was opened in November 2004.

USDA's final rule establishes the process that USDA will use to designate products eligible for the federal biobased preferred procurement program. To supplement this final rule, USDA must begin publishing a list of designated biobased items that agencies must purchase. Agencies will have one year after the issuance of these biobased product/item requirements to begin mandatory purchasing of those products.

OFPP believes that these new biobased product purchasing requirements complement existing green purchasing programs and encourages agencies to immediately incorporate biobased products into their overall affirmative procurement programs. Agencies should make performance determinations on which green product best fits their particular needs, whether it be biobased, recycled, energy-efficient and/or environmentally preferable products, and incorporate them into routine purchasing requirements for products and services.

The Office of the Federal Environmental Executive (OFEE) applauded USDA's efforts in creating a solid framework for the Federal Biobased Products Preferential Purchasing Program and said it looks forward to continue working with USDA to promote federal agency use of biobased products. OFEE encourages all agencies and individual facilities to purchase and test a variety of biobased products which are available now. Information on federal agencies' purchases of biobased products can be found in the Summer 2003, Spring 2004, and Summer 2004 issues of "Closing the Circle News," which are available at: www.ofee.gov, in the Publications section.

Though not yet mandatory, OFPP and OFEE asked all agencies to respond to several questions related to their efforts to initiate and incorporate biobased purchasing in the 2004 RCRA reporting requirements. Once USDA issues rules on requirements for particular biobased items, OFPP will work with USDA and other federal agencies to expand federal reporting systems, including the FPDS-NG, to accommodate biobased purchasing and find new and better ways to track it.