



PFAS-free Procurement — Getting it Done

August 3, 2023

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PFAS are Widespread in the Environment

- More than 1000 of PFAS in commerce
- Used in 100's of common products, such as cookware, carpets, cleaners, paints, stain resistant textiles/ fabrics
- Found in blood of nearly all Americans
- Found in drinking water of [200 million Americans](#) and 2000 communities
- Human biomonitor shows omnipresence of PFAS in humans ([EU Restriction Proposal](#))

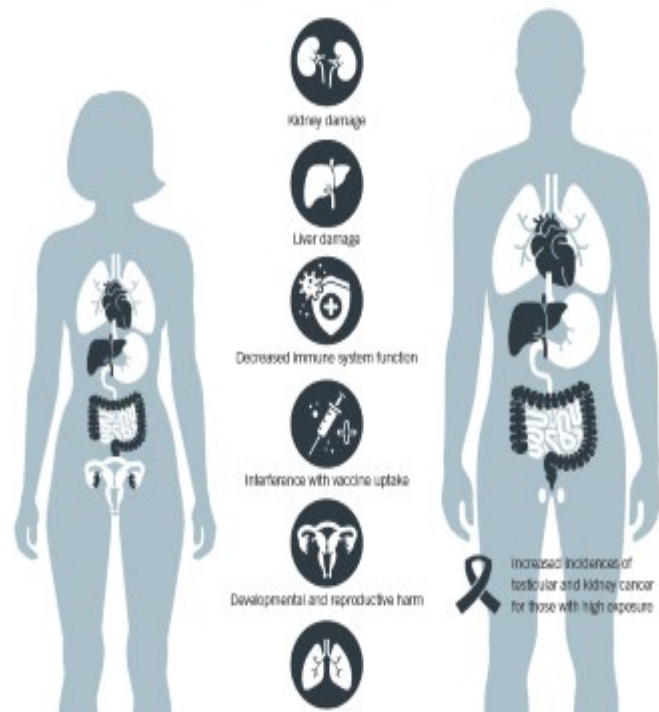


PFAS Health Concerns*

- Reproductive effects such as decreased fertility or increased high blood pressure in pregnant women.
- Developmental effects in children, including low birth weight, bone variations, or behavioral changes.
- Increased risk of some cancers, including prostate, kidney, and testicular cancers.
- Reduced ability of the body's immune system to fight infections, including reduced vaccine response.
- Interference with the body's natural hormones.
- Increased cholesterol levels and/or risk of obesity.
- Toxic at extremely low levels – EPA proposed drinking water standards at level of reliable detection (4 ppt for PFOA/PFOS, lower for other PFNA, PFHxS, PFBS, HFPO-DA).

**EPA information on health effects*

Adverse health impacts associated with PFAS include:



Biden Administration PFAS Commitments

- Biden Administration [Government - wide Plan](#) to Combat PFAS Pollution (October 2021)
- Over 100 Actions at EPA, DOD, DOE, FDA and other agencies
- EPA Listing as [Hazardous Substance](#) (proposed August 2022)
- EPA [Drinking water standards](#) (proposed March 2023)
- DOD [procurement restriction](#) for PFAS products (effective April 2023)
- Biden Environmental Justice Commitment



THE WHITE HOUSE
WASHINGTON

Biden Environmental Justice and Sustainability – PFAS Pledges

Four PFAS Campaign Pledges (July 2020)

- ✓ Designating PFAS as a Hazardous Substances
- ✓ Setting Limits for PFAS in Drinking Water
- ✓ Accelerating Research
- ? **Prioritizing Substitutes Through Procurement**



Priority for ACTION – Biden Environmental Justice and Sustainability PFAS Pledges

- **PFAS Campaign Pledges** (July 2020)
 - ✓ Designating PFAS as a hazardous substances
 - ✓ Setting enforceable limits for PFAS in Drinking Water
 - ✓ Accelerating research
 - ? **Prioritizing substitutes through procurement**
- **Executive Order 14057** (Dec 2021)
 - Sec. 208 (procurement) – *“incentivize markets for sustainable products”*
 - WH [Fact Sheet](#): Prioritizing sustainable purchase... *“such as products without added (PFAS)”*
 - WH [Memorandum](#):
...to maximum extent practicable...*agencies should avoid the procurement of PFAS-containing covered items*
- **CEQ/OMB Implementing [Instructions](#)**
(August 2022)



NEW RULE !

Same Paradigm ...

- **Unpublished Rule (August 3, 2023)**
 - Agencies to achieve 95% sustainable procurement
 - “Continue ensuring” products meet **statutory purchasing requirements**
 - AND “prioritize **multi -attribute products**”
- **Statutory preference...**
 - Biobased (USDA) products
 - Energy Star (DOE)
 - SNAP (EPA) Ozone alternatives
 - Recovered materials (EPA)
- **Multi -Attribute means...**
 - One or more statutory and one or more required EPA purchasing programs
 - These are: WaterSense; Safer Choice; Smartway Transportation; Environmental Preferred Purchasing Program



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6820-EP

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 5, 7, 9, 10, 11, 12, 13, 15, 18, 23, 26, 36, 37, 39, 42, and 52

[FAR Case 2022-006, Docket No. 2022-0006, Sequence No. 1]

RIN 9000-AO43

Federal Acquisition Regulation: Sustainable Procurement

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

NEW RULE

A Thorny Thicket Ahead!

- Government burden to Identify PFAS -free Products (E.g., EPA’s Recommendations)
- GSA (and agencies) tools, training and resources for 1000’s of procurement officials
- Judgment of “extent practicable” by 1000’s of officials
- Balance Competing Goals for Sustainability (e.g., biopreferred versus PFAS -free)
- Balance Goals for Procurement (e.g., cost savings, Buy American)



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ACTION: Proposed rule.

NEW RULE

A Thorny Thicket..Continued

Here's what your federal procurement official is asked to do:

Specifically, when procuring sustainable products and services, agencies shall ensure compliance with all applicable statutory purchasing programs (consolidated in FAR section 23.107) and prioritize multi-attribute sustainable products and services, i.e., that meet the requirements of both a statutory purchasing program and a required EPA purchasing program. The prioritization also notes that contracting officers are not required to procure products and services that meet the required EPA purchasing programs (see programs listed in section 23.108 of subpart 23.1) when doing so would conflict with statutes, Executive orders, or regulations that impose domestic manufacturing and content requirements.



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ACTION: Proposed rule.

NEW RULE

A Thorny Thicket..Continued

And this:

Procuring sustainable products and services will be considered practicable, unless an agency cannot: (1) competitively acquire a product or service within a reasonable performance schedule; (2) acquire a product or service that meets reasonable performance requirements; or (3) acquire a product or service at a reasonable price. For ENERGY STAR® or FEMP-designated products, a price is reasonable if it is cost-effective over the life of the product taking energy cost savings into account. This standard maintains existing exceptions to the statutory mandates to purchase certain energy-efficient products, biobased products, and products containing recovered material. This rule proposes to apply this standard of what is “practicable” to the other categories of sustainable products and services.



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There's a Better Way

1. Companies, not the Government, identifies products that are “PFAS free”
1. Companies Affirm “PFAS free” as part of any offer to sell to the government on GSA’s MAS (“GS Schedule”)
1. GSA schedule includes only “PFAS -Free” products in categories for which safer substitutes are available
 - Product lists available by third -party certifiers recognized by EPA
1. Phase-in “PFAS-free” affirmation for other government contracts



Why this Works!

1. “Added -PFAS” is binary – it’s IN or OUT – Unlike % renewable energy, or % recycled material. It’s low-hanging fruit.
1. Safer Alternatives ARE Available
 - Companies marketing PFAS-free products
 - See [GreenScreen](#) and [Green Science Policy Institute](#)
1. Self-implementing – GSA Schedule purchases automatically comply with Executive Order 14057 **for roughly one-third** of government purchase transactions!
 - Likely higher % for common products
1. It’s already being done!
 - DOD procurement rule
 - State Laws and Executive action



Getting it Done

DOD's Approach – a Model to Build Upon

For purchases of:

- (1) Nonstick cookware or cooking utensils for use in galleys or dining facilities; and
- (2) Upholstered furniture, carpets, and rugs that have been treated with stain- resistant coatings.

Effective Immediately (April 1, 2022):

- **Include in all solicitations**, “including solicitations for the acquisition of commercial products (including commercially available off-the-shelf items)...”
- **A representation by the offeror that:** “*By submission of its offer, the Offeror represents that it is not providing as part of its offer any covered items containing PFOS or PFOA.*”



Getting it Done – States Moving Ahead

EXAMPLES

Michigan

- Suppliers must disclose PFAS
- Agencies give preference to PFAS-free

Connecticut

- PFAS Firefighting Foam restricted
- Food packaging – Intentionally-added PFAS products cannot be offered for sale

Minnesota

- Compostable products - food, beverage and storage containers
- Bidders shall provide affidavits guaranteeing that perfluorinated compounds were not used or added

Other States Ac

- See “Safer States” Compilation

Wisconsin PFAS Action Plan

Wisconsin PFAS Action Council (WisPAC)

Department of Natural Resources

Department of Safety and
Professional Services

Department of Administration

Department of Transportation

Department of Agriculture, Trade
and Consumer Protection

Department of Veterans Affairs

Department of Corrections

Department of Public Affairs

Department of Health Services

Public Service Commission

Department of Justice

University of Wisconsin System

Department of Military Affairs

Wisconsin Economic Development
Corporation

Department of Public Instruction

Wisconsin State Lab of Hygiene

Department of Revenue

Business Support

(Legislative Proposal – May 5, 2023)



American Sustainable Business Network

Dear John,

ASBN and partners have called on the U.S. General Service Agency (GSA) to take bold action on restricting federal purchases of products containing per- and polyfluoroalkyl substances (PFAS). PFAS are used in thousands of applications, including common household products, despite the scientific consensus that they pose risks to human health even at low levels of exposure, and despite widely available safer substitutes.

The GSA was authorized to restrict federal purchases of PFAS products through [President Biden's Executive Order 14057](#) over a year ago but has been slow to act. Straight-forward legislative direction from Congress would help take a major step toward reducing unnecessary PFAS use in common products, supporting proactive businesses that have adopted innovative alternatives, and foster a transition to a sustainable and circular economy.

Add your voice to let Congress know that businesses and stakeholders want action on PFAS procurement now! Read and sign on [here](#).

Sign On Here!

Summary

Recommendations

December 21, 2022 Letter to GSA

- **Phase out Multiple Award System (MAS) contracts for products that contain intentionally added PFAS.** Build upon DOD's approach.
- **Incorporate sustainability into FAR,** including "representation" of no "intentionally-added" PFAS for products sold to the government
- **Expand tracking and improve reporting** on government-wide progress in sustainable procurement. Including an annual summary data for individual agencies by product category
- Other: **Make sustainable procurement a top tier GSA goal** with reportable milestones. Currently it's not a "key performance goal."

KNOW YOUR ENVIRONMENT.
PROTECT YOUR HEALTH.



NEWS & INSIGHTS / NEWS RELEASES / 2022 / 12

Groups push agencies to buy only products free from 'forever chemicals'

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Thank you

Know your environment. Protect your health.

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