Chronological History of Federal Energy-Efficient Product Procurement: Executive, Legislative and Regulatory Requirements, Actions and Mandates

Introduction
The National Energy Conservation Policy Act (NECPA), signed into law in 1978, is the foundational authority for federal energy management requirements. Various legislative actions and Executive Orders (EOs) have developed purchasing requirements that encompass all areas of federal procurement. Federal agencies have been required to purchase energy-efficient products since the early 1990’s. Numerous EOs, Acts and legislation are codified in the Federal Acquisition Regulations (FAR Part 23) and Code of Federal Regulations (10 CFR 436) providing extensive guidance on energy-efficient purchasing practices to federal agency procurement officers.

Useful Links

42 U.S.C. § 13201
(October 24, 1992; Public Law 102-486, 106 Stat. 2776 and section 301 of title 3)


Federal procurement of energy-efficient product requirements: Required agencies to reference Section 161- Procurement and Identification of Energy-Efficient Products which contains the requirements for agencies to purchase energy-consuming products that are life-cycle cost-effective.

Actions: The U.S. Department of Energy (DOE), in consultation with other agencies, was charged with identifying and designating energy-efficient products that offer significant potential savings; with issuing guidelines to encourage the acquisition and use (of these products) by all federal agencies; and reporting to Congress annually on program activities, status and progress. The current version of this resource can be accessed through: http://www1.eere.energy.gov/femp/technologies/procuring_eeproducts.html.
EO 12845 (Requiring Agencies to Purchase Energy-Efficient Computer Equipment)  
(April 21, 1993; 58 FR 21887)

Current Status: Revoked by EO 13123

Federal procurement of energy-efficient product requirements: This EO directed the U.S. government to participate in the U.S. Environmental Protection Agency (EPA) ENERGY STAR computer program by agreeing to buy energy-efficient computers, monitors, and printers. To the extent possible, federal agencies were to purchase only computer equipment that met the EPA ENERGY STAR requirements.

Actions: To the extent permitted by law, agencies were to include this specification in all existing and future contracts, if both the Government and the contractor agreed, and if any additional costs would be offset by the potential energy savings. Additionally, agencies were to ensure that federal users were made aware of the significant economic and environmental benefits of the energy-efficient low-power standby feature. A good resource for calculating potential savings can be found at: http://www1.eere.energy.gov/femp/technologies/eeecalculators.html.

EO 13221 (Energy-Efficient Standby Power Devices)  
(July 31, 2001; 66 FR 40571)

Current Status: In effect

Federal procurement of energy-efficient product requirements: Section 1 – Energy-Efficient Standby Power Devices contain the requirements for federal agencies to purchase products that use one watt or less of standby power. If an agency finds that no product meets this level, the agency is required to purchase the product that uses the least amount of standby power.

Actions: DOE in consultation with the Department of Defense (DoD) and GSA was required to complete and maintain a list of products subject to this requirement. For additional information, please reference: http://www1.eere.energy.gov/femp/technologies/standby_power.aspx.

EO 13123 (Greening the Government Through Efficient Energy Management)  
(June 3, 1999; 64 FR 30851)

Current Status: Revoked by EO 13423

Federal procurement of energy-efficient product requirements: EO 13123 directed EPA and DOE to expedite the process of designating products as ENERGY STAR qualified and to merge their efficiency rating procedures. For product groups where ENERGY STAR labels were not yet available, agencies were to select products that were in the upper 25 percent of energy efficiency as designated by FEMP. This EO revoked EO 12759, EO 12845, and EO 12902.

Actions: GSA and the Defense Logistics Agency (DLA), with assistance from EPA and DOE, were required to complete and maintain a list of products subject to this requirement. For additional information, please reference: http://www1.eere.energy.gov/femp/technologies/eep_fempdesignatedproducts.html.
EPAct of 2005  
(August 8, 2005; EPAct 2005; Public Law 109-58)  
42 USC §13201

Current Status: In effect

Federal procurement of energy-efficient product requirements:  
EPAct (Pub. L. 109–58; August 8, 2005), amended Part 3 of title V  
of NECPA (42 U.S.C. 8251–8259) by adding section 553.  
Section 553 of NECPA requires each federal agency to procure ENERGY  
STAR (42 U.S.C. 6294a) qualified or FEMP (10 CFR Part 436)  
designated products, unless the head of the agency determines in  
writing that a statutory exception applies. (42 U.S.C. 8259b(b)  
(1)). Further, each agency is required to incorporate into the  
specifications of all procurements involving energy-consuming  
products and systems, and into the factors for evaluation of offers  
received for such procurements, criteria for energy-efficiency that  
are consistent with the criteria used for rating ENERGY STAR  
qualified products and for rating FEMP designated products. (42  
U.S.C. 8259b(b)(3)). Section 553 also requires that all inventories  
or listings of products operated and maintained by GSA and DLA  
clearly identify and prominently display ENERGY STAR qualified  
and FEMP designated products in any listing or inventory of  
products, and it requires GSA and DLA to supply only ENERGY  
STAR qualified and FEMP designated products in all covered  
product categories, except in cases in which an exception applies.  
(42 U.S.C. 8259b(c)).

Section 104 (b, c, and e) Procurement of Energy-Efficient Products  
of EPAct 2005 requires that each agency incorporate energy-  
efficiency criteria consistent with ENERGY STAR and FEMP  
designated products for “…all procurements involving energy-  
consuming products and systems, including guides specifications,  
project specifications, and construction, renovation, and services  
contracts that include provision of energy-consuming products and  
systems, and into the factors for the evaluation of offers received  
for the procurement.”

EPAct 2005 also reaffirmed the authority of FEMP to identify  
a product as being “among the highest 25 percent of equivalent  
products for energy-efficiency.” (42 U.S.C. 8259b(a)(4))

Actions: The statute prescribes the program duties of the  
Administrator of EPA and the Secretary of Energy; requires the  
solicitation of public comment before an ENERGY STAR product  
category, specification or criterion is established or revised; and  
establishes a lead time before a new or significant revision of a  
product category, specification, or criterion may become effective.

EO 13423 (Strengthening Federal Environmental, Energy and  
Transportation Management)  
(January 24, 2007; 72 FR 3919)

Current Status: In effect

Federal procurement of energy-efficient product requirements:  
In Section 2 of EO 13423, Goals for Agencies, subsections (d)  
and (h) outline the requirements for the acquisition of sustain-  
able environmental goods and services. The Instructions for  
Implementing EO 13423 define this requirement to include the  
procurement of ENERGY STAR qualified, FEMP designated and  
WaterSense labeled products. Additionally, 95 percent of electronic  
products purchased must meet Electronic Product Environmental  
Assessment Tool standards where applicable.

Actions: Agency implementation of sustainable practices for  
acquisition.

Energy Independence and Security Act of  
2007  
(December 19, 2007; 42 U.S.C. §17381)

(EISA; Public Law 110-140)

Current Status: In effect

Federal procurement of energy-efficient product requirements:  
Section 553 of NECPA was further amended by section 525 of the  
110); (December 19, 2007). The act clarifies that the procurement  
requirements apply to the procurement of a product in a category  
covered by the ENERGY STAR program or the FEMP program for  
designated products. (42 U.S.C. 8259(b)(1)). Additionally, requires  
federal agencies to purchase energy-consuming products with a  
low standby power level of 1 watt or less.

Section 553 also requires that all inventories or listings of prod- 

cuts operated and maintained by GSA and DLA clearly identify  
and prominently display ENERGY STAR qualified and FEMP  
designated products in any listing or inventory of products. It also  
requires GSA and DLA to supply only ENERGY STAR qualified  
and FEMP designated products in all covered product categories,  
except in cases in which the head of the agency ordering a product  
specifies in writing that an exception applies. (42 U.S.C. 8259b(c)).

Section 553 of NECPA contains two exceptions to the requirement  
to procure only ENERGY STAR qualified and FEMP designated
products, and it excludes a specific category of energy-consuming products from coverage.

The subsection entitled “REGULATIONS,” section 553(f) of NECPA, directs the Secretary of Energy to issue guidelines to carry out the statute. (42 U.S.C. 8259b(f)). NECPA section 553 imposes procurement requirements on agencies and additional requirements on GSA and DLA.

**Actions:** Each federal agency was required to include specifications for product energy-efficiency that are consistent with the criteria used for rating ENERGY STAR qualified products and for rating FEMP designated products. This includes all procurements involving energy-consuming products and systems, and the factors for evaluation of offers received for such procurements. (42 U.S.C. 8259b(b)(3)). For guidance on Model Acquisition Language for Energy-Efficient Product Contracts please reference: [http://www1.eere.energy.gov/femp/technologies/eep_modellang.html](http://www1.eere.energy.gov/femp/technologies/eep_modellang.html).

**DOE: Federal Procurement of Energy-Efficient Products**

*(April 13, 2009, 74 FR 10830)*


**Current Status:** In effect, final rule

**Federal procurement of energy-efficient product requirements:**

DOE published a final rule to promote federal procurement of energy-efficient products. The final rule establishes guidelines for federal agencies regarding the implementation of amendments to NECPA that required federal agencies to procure ENERGY STAR qualified and FEMP designated products in procurements involving energy-consuming products and systems. This final rule includes changes in response to comments received on the notice of proposed rulemaking published June 19, 2007. The final rule does not establish a reporting requirement, as initially proposed, for federal agencies under the procurement requirement of NECPA.

Consistent with the direction provided in section 553(f) this rule amends 10 CFR part 436, Federal Energy Management and Planning Programs, to establish guidelines for federal agencies on compliance with section 553.

**Actions:** DOE undertook a rulemaking to incorporate the requirements for federal agencies to purchase energy-efficient products into 10 CFR 436. DOE responded to comments received on the notice of proposed rulemaking published June 19, 2007. DOE encouraged agencies other than GSA and DLA that operate procurement ordering systems to achieve the goals of section 553.

**EO 13514 (Federal Leadership in Environmental, Energy and Economic Performance)**

*(October 8, 2009; 74 FR 52117)*

**Current Status:** In effect

**Federal procurement of energy-efficient product requirements:**

EO 13514 expands on the energy reduction and environmental performance requirements for federal agencies identified in EO 13423. Section 2(h) and (i) – Goals for Agencies set the requirements for agencies to ensure that 95% of their new product procurements, including electronic equipment, are energy (i.e., FEMP designated and ENERGY STAR) and water efficient.

The current version of the approved product resource can be accessed through: [http://www1.eere.energy.gov/femp/technologies/procuring_eeproducts.html](http://www1.eere.energy.gov/femp/technologies/procuring_eeproducts.html).

**Conclusion**

There are numerous legislative contributors to the current requirements for federal energy-efficient product procurement (EEPP). The basis for the evolving EOs and acts is found in USC 42, FAR parts 23 and 52, and 10 CFR Part 36. As technologies improve, the recommendations for product purchasing will evolve. All procurement officers should have a thorough understanding of the various facets of procurement standards and defer to the FEMP approved resources in order to stay current on EEPP.