

PUBLIC CONTRACT CODE

SECTION 12200-12217

12200. For the purpose of this article, the following definitions shall apply:

(a) "Board" means the California Integrated Waste Management Board, as defined pursuant to Section 40110 of the Public Resources Code.

(b) "Business" includes bidders, contractors, and other interested parties that provide services to, or sell products to, the state.

(c) "Department" means the Department of General Services.

(d) "Director" means the Director of General Services.

(e) "Postconsumer material" means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes.

(f) "Product categories" include paper products, printing, and writing papers, compost, cocompost, or mulch, glass, oil, plastic, paint, tires, tire-derived products, antifreeze, and metal.

(g) "Purchase" means any contractual agreement that state agencies use to obtain goods or materials.

(h) "Recycled products" mean goods or materials that meet the requirements identified in Section 12209, including any good or material that has been reused or refurbished without substantial alteration of its original form.

(i) "Reportable purchase" means the purchase of any goods or materials, with recycled content or not, that may be reported or categorized or classified within one of the product categories identified in Section 12207.

(j) "Reportable recycled product purchase" means the purchase of any goods or materials that meet the requirements identified in Section 12209, that may be reported or categorized or classified within one of the product categories identified in Section 12207, including any good or material that has been reused or refurbished without substantial alteration of its original form.

(k) "SABRC" means the State Agency Buy Recycled Campaign.

(l) "Secondary material" means fragments of finished products or finished products of a manufacturing process, that has converted a resource into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process, such as fibers recovered from wastewater, trimmings of paper machine rolls, mill broke, plastic, or metal trimmings, or shavings, or other residue from a manufacturing process. Secondary material does not include postconsumer material, so that the secondary material plus the postconsumer material plus the virgin material adds up to 100 percent of the product.

(m) "State agency" means each entity identified in Section 11000 of the Government Code, and includes the California State University.

12201. (a) The Legislature finds and declares that it is the policy of the state to conserve and protect its resources. The Legislature further finds and declares that the use of recycled products produced as the result of the superior waste management efforts by the state and local governmental entities will help conserve resources.

(b) It is the intent of the Legislature that the state pursue all feasible measures to improve markets for recycled products including, but not limited to, bid evaluation preferences for purchases made by the state.

(c) If fitness and quality are equal, each state agency shall purchase recycled products instead of nonrecycled products whenever

recycled products are available at the same or a lesser total cost than nonrecycled products.

12203. Each state agency shall ensure each of the following:

(a) At least 50 percent of reportable purchases are recycled products.

(b) The requirements specified in this article apply to all reportable purchases of state agencies for product categories listed in this article.

(c) The reportable purchases of state agencies shall meet each requirement for, and be applied to the total dollar amount of, each specified product category as defined in this article. The purchase of a recycled product from one category may not be applied toward the requirements for, or the total dollar amount of, any other category listed in this article.

(d) Each state agency shall require the businesses with whom it contracts to use, to the maximum extent economically feasible in the performance of the contract work, recycled products.

12205. (a) (1) All state agencies shall require all businesses to certify in writing the minimum percentage, if not the exact percentage, of postconsumer material in the products, materials, goods, or supplies offered or sold to the state regardless of whether the product meets the requirements of Section 12209. The certification shall be furnished under penalty of perjury. The certification shall be provided regardless of content, even if the product contains no recycled material.

(2) With respect to printer or duplication cartridges that comply with the requirements of subdivision (e) of Section 12156, the certification required by this subdivision shall specify that the cartridges so comply.

(3) A state agency may waive the certification requirement if the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet Web site.

(b) (1) All businesses shall certify in writing to the contracting officer or his or her representative the minimum percentage, if not the exact percentage, of postconsumer material in the products, materials, goods, or supplies being offered or sold to the state regardless of whether the product meets the requirements of Section 12209. The certification shall be furnished under penalty of perjury. The certification shall be provided regardless of content, even if the product contains no recycled material.

(2) With respect to printer or duplication cartridges that comply with the requirements of subdivision (e) of Section 12156, the certification required by this subdivision shall specify that the cartridges so comply.

(3) A state agency may waive the certification requirement if the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet Web site.

12207. This article applies to the purchase of goods and materials from the following product categories:

(a) Paper products, including, but not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, building insulation and panels, corrugated boxes, tissue, and toweling.

(b) Printing and writing papers including, but not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper,

note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications.

(c) Mulch, compost, and cocompost products including soil amendments, erosion controls, soil toppings, ground covers, weed suppressants, and organic materials used for water conservation.

(1) "Compost" means a product that meets the following requirements:

(A) It results from the controlled biological decomposition of organic materials, including, but not limited to, yard trimmings and wood byproducts that are separated from the municipal solid waste stream at the source of generation or at a centralized facility, or other source of organic materials.

(B) It is produced by a public or private supplier that is in compliance with the board's composting operations regulatory requirements.

(2) "Cocompost" means a product that meets the following requirements:

(A) It results from the controlled biological decomposition of a blend of organic materials, including, but not limited to, yard trimmings and wood byproducts that are separated from the municipal solid waste stream at the source of generation or at a centralized facility, and also including, but not limited to, biosolids or other comparable substitutes such as livestock, horse, or other animal manure, food residues, or fish processing byproducts.

(B) It is produced by a public or private supplier that is in compliance with the board's composting operations regulatory requirements.

(3) "Mulch" means a product that meets the following requirements:

(A) It results from the mechanical breakdown (chipping and grinding) of materials, including, but not limited to, yard trimmings and wood byproducts that are separated from the municipal solid waste stream at the source of generation or at a centralized facility.

(B) It is produced by a public or private supplier that is in compliance with the board's composting operations regulatory requirements.

(d) Glass products including, but not limited to, windows, test tubes, beakers, laboratory or hospital supplies, fiberglass (insulation), reflective beads, tiles, construction blocks, desktop accessories, flat glass sheets, loose-grain abrasives, deburring media, liquid filter media, and containers.

(e) Lubricating oils including, but not limited to, any oil intended for use in a crankcase, transmission, engine, power steering, gearbox, differential chainsaw, transformer dielectric fluid, cutting, hydraulic, industrial, or automobile, bus, truck, vessel, plane, train, heavy equipment, or machinery powered by an internal combustion engine.

(f) (1) Plastic products including, but not limited to, printer or duplication cartridges, diskette, carpet, office products, plastic lumber, buckets, wastebaskets, containers, benches, tables, fencing, clothing, mats, packaging, signs, posts, binders, sheet, buckets, building products, garden hose, and trays.

(2) For purposes of this subdivision, "printer or duplication cartridges" has the same meaning as described in paragraph (2) of subdivision (f) of Section 12209.

(g) Paint, including, but not limited to, water-based paint, graffiti abatement, interior and exterior, and maintenance.

(h) Antifreeze, including recycled antifreeze, and antifreeze containing a bittering agent or made from polypropylene or other similar nontoxic substance.

(i) Tires including, but not limited to, truck and bus tires, and those used on fleet vehicles and passenger cars.

(j) Tire-derived products including, but not limited to, flooring, mats, wheelchair ramps, playground cover, parking bumpers, bullet traps, hoses, bumpers, truck bedliners, pads, walkways, tree ties, road surfacing, wheel chocks, rollers, traffic control products,

mudflaps, and posts.

(k) Metal including, but not limited to, staplers, paper clips, steel furniture, desks, pedestals, scissors, jacks, rebar, pipe, plumbing fixtures, chairs, ladders, file cabinets, shelving, containers, lockers, sheet metal, girders, building and construction products, bridges, braces, nails, and screws.

12209. For purposes of this article, the following minimum content requirements apply:

(a) Recycled paper products shall consist of at least 30 percent, by fiber weight, postconsumer fiber.

(b) (1) Recycled printing and writing paper shall consist of at least 30 percent, by fiber weight, postconsumer fiber.

(2) Printed newspapers that meet the requirements of Chapter 15 (commencing with Section 42750) of Part 3 of Division 30 of the Public Resources Code shall be considered in compliance with the requirements of this section.

(c) For recycled compost, cocompost, and mulch, at least 80 percent of the product shall consist of materials, including, but not limited to, the materials listed in subdivision (c) of Section 12207, that would otherwise be normally disposed of in landfills.

(d) For recycled glass, the total weight shall consist of at least 10 percent postconsumer material.

(e) Rerefined lubricating oil shall have a base oil content consisting of at least 70 percent rerefined oil.

(f) (1) For recycled plastic products, other than printer or duplication cartridges, the total weight shall consist of at least 10 percent postconsumer material.

(2) Recycled printer or duplication cartridges shall comply with either the requirements set forth in subdivision (e) of Section 12156 or the general requirement for recycled plastic products set forth in paragraph (1).

(g) Recycled paint shall have a recycled content consisting of at least 50 percent postconsumer paint. Preconsumer or secondary paint does not qualify as "recycled paint" pursuant to this subdivision. If paint containing 50 percent postconsumer content is unavailable, or is restricted by a local air quality management district, a state agency may substitute paint with at least 10 percent postconsumer content.

(h) Recycled antifreeze fluid shall have a recycled content of at least 70 percent postconsumer materials.

(i) Retreaded tires must use an existing casing that has undergone an approved or accepted recapping or retreading process, in accordance with Chapter 7 (commencing with Section 42400) of Part 3 of Division 30 of the Public Resources Code.

(j) For tire-derived products, the total content shall consist of at least 50 percent recycled used tires.

(k) For recycled metal products, the total weight shall consist of at least 10 percent postconsumer material.

(l) For reused or refurbished products, there is no minimum content requirement.

12211. (a) Each state agency shall report annually to the board their progress in meeting the recycled product purchasing requirements using the SABRC report format provided by the board.

(b) On or before October 31 of each year, the department shall provide to the board the following information:

(1) A list, by category, of individual reportable recycled products, materials, goods, and supplies that were available for purchase by state agencies from a statewide-use contract, agreement, or schedule during the previous fiscal year.

(2) A list, by category, of all reportable products, materials, goods, and supplies that were available for purchase by state agencies from a statewide-use contract, agreement, or schedule,

including contract, agreement, or schedule tracking numbers, during the previous fiscal year.

(c) The board shall annually provide an agency-specific report to the Legislature identifying all state agency SABRC reporting figures.

(d) Every three years, the board shall provide, as part of the report described in subdivision (c), recommendations to the Legislature for changes necessary to increase the purchase of recycled content products, materials, goods, and supplies and improve SABRC program efficiency.

12215. Each state agency may, at the discretion of the individual agency director or his or her designee, print a statement on recycled products selected by the agency director. This statement shall be determined by the department, in consultation with the board, and shall be similar to the following: "Contains at least ____ percent postconsumer material."

12217. (a) If at any time a requirement has not been met, the department, in consultation with the board, shall review purchasing policies and shall make recommendations for immediate revisions to ensure that the recycled product purchasing requirements are met.

(b) In determining purchasing specifications, with the exception of any specifications that have been established to preserve the public health and safety, all state purchasing specifications shall be established in a manner that results in the maximum state purchase of recycled products.

(c) If a recycled product, as defined in subdivision (h) of Section 12200, costs more than the same product made with virgin material, the state agency shall, if feasible, purchase fewer of those more costly products or apply the cost savings, if any, gained from buying other recycled products towards the purchase of those more costly products to meet the solid waste diversion goals of Section 41780.

(d) Each state agency shall establish purchasing practices that ensure the purchase of goods and materials that may be recycled or reused. Each state agency shall continue activities for the collection, separation, and recycling of recyclable materials and may appoint a recycling coordinator to assist in implementing this section.

(e) To assist the state in meeting the requirements of this article, each state agency, and the department, in consultation with the board, may also establish recycled product-only bids, cooperative purchasing arrangements, or other mechanisms to meet the requirements for recycled products and to encourage the maximum state purchase of recycled products.

(f) The department, in consultation with the board, shall review and revise the purchasing specifications used by state agencies in order to eliminate restrictive specifications and discrimination against the purchase of recycled products and to ensure that they are drafted in a manner that results in the maximum state purchase of recycled products. All contract provisions impeding the consideration of recycled products shall be deleted in favor of performance standards.

(g) Any state agency that is required to submit an SABRC report to the board, pursuant to Section 12211, is subject to a review conducted by the board or its designee.