



Monday, June 17, 2002

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State Finance

ARTICLE XI
STATE PURCHASING

Section 165. Purchasing restrictions.

3. Purchasing of commodities for state use.

a. For the purposes of this subdivision, the following terms shall have the meanings set forth herein. "Recycled commodity" shall mean any commodity that has been manufactured from secondary materials as defined in subdivision one of section two hundred sixty-one of the economic development law and that meets secondary material content requirements adopted by the office of general services, which shall be consistent, to the extent practicable, with regulations promulgated pursuant to section 27-0717 of the environmental conservation law or, if no such requirements have been adopted or no such product is available, meets the secondary material content requirements adopted by any state agency with respect to a specific commodity procurement by such agency. "Remanufactured" shall mean any commodity that has been restored to its original performance standards and function and is thereby diverted from the solid waste stream, retaining, to the extent practicable, components that have been through at least one life cycle and replacing consumable or normal wear components. "Recyclable" shall mean any commodity that can be collected, separated, or otherwise recovered from the solid waste stream for reuse, remanufacture or assembly of another commodity, through a widely available and easily accessible program.

b. Consistent with determinations of need required by subdivision five of section one hundred sixty-three of this article, the commissioner and state agencies shall purchase recycled, remanufactured or recyclable commodities when such commodities meet their form, function and utility and shall consider the cost of the commodity over its lifecycle. The commissioner and a state agency shall also have the authority to determine that for reasons of public health or safety, a recycled, remanufactured or recyclable commodity should not be purchased. Such determinations shall be documented in the procurement record.

(i) A state agency shall purchase recycled commodities at a cost premium only if (A) the cost premium associated with a commodity which has recycled content does not exceed ten percent above the cost of a commodity made without recycled content or, (B) the cost of a recycled commodity that contains at least fifty percent secondary materials generated from the waste stream in New York state, does not exceed a cost premium of fifteen percent above the cost of a comparable commod-

ity.

(ii) A state agency shall not be required to purchase recyclable or remanufactured commodities at a cost premium unless such commodity also constitutes a "recycled commodity" as defined in this subdivision and that as such a recycled commodity, it has been offered for sale in conformance with the standards for application of a cost premium for recycled commodities as set forth in clauses (A) and (B) of subparagraph (i) of this paragraph.

c. The commissioner shall periodically review the general specifications in order to eliminate, wherever feasible, discriminations against the procurement of commodities manufactured with recovered materials or remanufactured materials; and shall annually review the paper specifications to consider increasing the percentage of recycled paper in paper commodity purchases.

d. Whenever the commissioner or other state agencies shall purchase or cause the purchase of printing on recycled paper, he or she shall require, to the extent feasible, the printed material to meet the requirements of subdivision two of section 27-0717 of the environmental conservation law and regulations promulgated pursuant thereto, and to include a printed statement or symbol which indicates that the document is printed on recycled paper.

e. Each state agency shall devise, institute and maintain a program to source separate waste paper generated within state office facilities. Such a program shall include marketing arrangements and appropriate procedures to ensure the recovery of discarded paper in a uncontaminated condition.

f. Each state agency shall devise and institute a program to source separate all other waste generated within state office facilities that is not covered by paragraph e of this subdivision. Such program shall include marketing arrangements and appropriate procedures to ensure the maximum recovery of such waste.

g. In addition to carrying out the provisions of paragraphs e and f of this subdivision, the commissioner shall identify and implement specific steps which will reduce, to the maximum extent practicable, waste generated in state facilities and maximize the recovery and reuse of secondary materials from such facilities. Such steps and their implementation shall be reviewed from time to time but no less frequently than annually or upon receiving recommendations for additional steps from the solid waste management board, the department of environmental conservation or the environmental facilities corporation.

h. All state agencies shall fully cooperate with the commissioner in all phases of implementing the provisions of this section.

i. The commissioner shall report annually to the governor and the legislature by September first concerning the quantities of recycled paper purchased by the office of general services and by state agencies pursuant to paragraph c of this subdivision, and concerning the amounts of waste recycled from state offices and other facilities pursuant to paragraphs e and f of this subdivision, the extent of waste reduction, the percentage of the total waste stream which is recycled, the kinds of materials eliminated from the waste stream, the full avoided costs of proper collection and disposal costs of implementing the programs under this section, the specific activities undertaken, goals for the subsequent year resulting from the implementation of steps pursuant to paragraph g of this subdivision, and remaining issues and areas for improvement. Such reports shall be widely disseminated as a means of assisting

those outside state government in the design and implementation of waste reduction and recycling programs, through discussion of the state's experience in implementing all program aspects such as collection, sorting, handling, storage and marketing, and the resulting accomplishments.

j. The commissioner shall submit to the director of the budget, the chairman and ranking minority member of the senate finance committee and the chairman and ranking minority member of the assembly ways and means committee an evaluation of all the source separation programs implemented under this subdivision, for paper and other waste prepared by an independent entity. Such evaluation shall be submitted by September first, nineteen hundred ninety-six and by September first, every two years thereafter.