

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
METRO CODE CHAPTER 2.04, ADOPTING)
A RECYCLED PRODUCT PROCUREMENT)
PROGRAM FOR METRO)

ORDINANCE NO. 93-513

Introduced by Rena Cusma
Executive Officer

WHEREAS, recycling cannot occur without processing of recycled materials and the manufacturing and sale of products with recycled content; and

WHEREAS, government procurement of recycled content products stimulates demand for products with recycled content; and

WHEREAS, ORS Chapter 279 establishes recycled product procurement requirements for public agencies in Oregon, Metro's Regional Waste Reduction Plan identifies procurement as an element of the Waste Reduction Program, and Executive Order 47A provides guidelines for purchasing recycled products; and

WHEREAS, Metro Ordinances No. 89-280 and No. 89-303 establish policies giving preference to recycled paper and yard debris compost/sewage sludge compost over non-recycled products, and Resolution No. 89-1099 gives preference to purchase of retread tires; and

WHEREAS, administration of all recycled product procurement requirements will be improved through consolidation and clarifications made by this ordinance; and

WHEREAS, establishment of a ten percent price preference for recycled products is consistent with Metro's leadership role in regional waste reduction and recycling; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 2.04.075 and ordinances number 89-280 and 89-303 are repealed. In addition, Resolution number 89-1099 is rescinded.

Section 2. The following sections 2.04.500, 2.04.510, 2.04.520, 2.04.530, 2.04.540, 2.04.550, 2.04.560, 2.04.570, and 2.04.580 are made part of Metro Code Chapter 2.04, under a separate heading to read, "Metro Recycled Product Procurement Program":

2.04.500 Policy Statement

It is the purpose of this ordinance to establish a Recycled Content Product Procurement Program that will achieve the following:

(a) Increase the procurement of recycled content products and recyclable materials by all Metro departments and facilities and increase the use of recycled content products and recyclable materials by contractors to Metro in the performance of their contract work.

(b) Comply with Oregon Revised Statutes, Chapter 279 regarding procurement of recycled content materials and products by public agencies.

(c) Encourage procurement of products with the greatest post-consumer content, and those that contribute to the use of locally generated and recovered materials for which there are the most significant recycling market development needs.

(d) Serve as an example for other institutional purchasers, both public and private.

2.04.510 Definitions

As used in sections 2.04.500 through the end of this chapter:

(a) "Compost" means the controlled biological decomposition of organic material or the product resulting from such a process.

(b) "Glass Aggregate" means any blend of material at least 15 percent of which is post-consumer container glass, window (or plate) glass, and/or plumbing ceramics, that functions as a construction aggregate substitute. The total mix shall meet the gradation for the designated application.

(c) "Industrial Oil" means any compressor, turbine or bearing oil, hydraulic oil, metal-working oil or refrigeration oil.

(d) "Lubricating Oil" means any oil intended for use in an internal combustion crankcase, transmission, gearbox or differential or an automobile, bus, truck, vessel, plane, train, heavy equipment or machinery powered by an internal combustion engine.

(e) "Organic Soil Amendments" means compost products made from organic waste materials, including yard debris, leaves, sewage sludge, food waste or municipal solid waste. Organic Soil Amendments may be used in the following applications: soil mix component, propagation, container mixes, field crop amendments, mulch, soil top dressing, substitute for gravel, soil structure improvement, mud control, erosion control, stormwater runoff, landfill cover and weed control.

(f) "Post-consumer Waste" means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. "Post-consumer waste" does not include manufacturing waste.

(g) "Recycled Material" means any material that would otherwise be useless, unwanted or discarded material except for the fact that the material still has useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled.

(h) "Recycled Oil" means used oil that has been prepared for reuse as a petroleum product by refining, rerefining, reclaiming, reprocessing or other means provided that the preparation or use is operationally safe, environmentally sound and complies with all laws and regulations.

(i) "Recycled Paint" means water-based latex paint, with a minimum of 50 percent post-consumer recycled content, that has been processed for reuse as an interior or exterior primer or surface coating on walls and ceilings.

(j) "Recycled Paper" means a paper product with not less than: (1) Fifty percent of its total weight consisting of secondary waste materials; or (2) Twenty-five percent of its total weight consisting of post-consumer waste.

(k) "Recycled Product" means all materials, goods and supplies, not less than 50 percent of the total weight of which consists of secondary and post-consumer waste with not less than 10 percent of its total weight consisting of post-consumer waste. "Recycled product" also includes any product that could have been disposed of as solid waste, having completed its life cycle as a consumer item, but otherwise refurbished for reuse without substantial alteration of the product's form.

(l) "Retread Tire" means any tire that uses an existing casing for the purpose of vulcanizing new tread to such casing that meets all performance and quality standards specified in the Federal Motor Vehicle Safety Standards determined by the United States Department of Transportation.

(m) "Secondary Waste Materials" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes post-consumer waste, but does not include excess virgin resources of the manufacturing process. For paper, "secondary waste materials" does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

(n) "US EPA Purchasing Guidelines" means the product standards of the United States Environmental Protection Agency published in the Code of Federal Regulations, Title 40, Chapters 248 through 253.

2.04.520 Recycled Products (Generally)

(a) Metro facilities and contractors to use Recycled Materials and Products.

- (1) The Procurement Officer shall review procurement standards and specifications currently utilized in order to eliminate, where economically feasible, discrimination against the procurement of Recycled Materials and Products, and to develop purchasing practices which encourage purchase of materials that are recycled or may be recycled or reused when discarded.

- (2) To the extent practicable, Metro's standards and specifications for Recycled Products shall be consistent with US EPA Purchasing Guidelines.
- (3) Notices to solicit bids from contractors shall state that Metro gives the price preference described in subsection (b)(1) of this section to Recycled Products and Materials. All invitations to bid or requests for proposals shall include the following language: "Vendors shall use recycled and recyclable materials and products to the maximum extent economically feasible in the performance of contract work set forth in this document."
- (4) At their discretion, Metro and its agents, including contractors, may specify acceptance of only Recycled Products or Materials in bids and solicitations so long as quality and availability of Recycled Products and Materials are equal to nonrecycled products and materials. When a Recycled Product or Material is specified in a bid or solicitation, no price preference shall be given.
- (5) If the price of a Recycled Product is equal to or less than an otherwise identical non-recycled product, then Metro, and its agent, including contractors, shall specify only the Recycled Product in bids and specifications.
- (6) The Procurement Officer and Waste Reduction Division shall provide information on US EPA Purchasing Guidelines and on Recycled Products available in the region to contractors and bidders and shall provide notice of the availability of such information in procurement solicitations. Metro staff shall contact the Procurement Officer or the Waste Reduction Division to determine the availability of Recycled Products prior to the solicitation of quotes, bids or proposals for any contract in an amount greater than \$5,000. This requirement shall not apply to contracts for services only.
- (7) The Procurement Officer shall investigate and implement, as appropriate, purchasing jointly with other public agencies to potentially reduce the price paid for Recycled Products.

(b) Price preference to be given for the purchase of Recycled Products or Materials.

- (1) When purchasing products or procuring services, Metro shall give preference to materials and supplies manufactured from recycled materials if the Recycled Product or Material:
 - (A) is available;**
 - (B) meets applicable standards;**
 - (C) can be substituted for a comparable nonrecycled product; and**
 - (D) costs do not exceed the costs of nonrecycled products by more than ten percent.****
- (2) At their discretion, Metro departments and facilities may give a greater than ten percent price preference to the purchase of Recycled Products, materials and supplies manufactured from Recycled Materials or that reduce the amount of waste generated.**
- (3) When considering bids/proposals submitted by contractors, Metro shall evaluate the extent to which recycled materials and products have been incorporated.**
- (4) Vendors and contractors who incorporate recycled materials and products in their bids/proposals shall provide written certification of the minimum recycled content of these materials and products, including the percent of Post-consumer and Secondary Waste as defined in Section 2.04.510.**
- (5) Unless otherwise specified in a bid or proposal request, bidders and proposers shall submit the actual proposed cost of a Recycled Product or Material bid item. It shall be Metro's responsibility to calculate any preferences required. If Metro, in its sole discretion, determines that a product or material offered by a vendor or contractor is a Recycled Product or Material meeting the requirements of this section, Metro shall subtract ten percent or the preference otherwise**

2.04.530 Recycled Content Paper Products

(a) Metro shall give up to a ten percent price preference for the purchase of Recycled Paper (which includes all paper products), as compared to nonrecycled paper or paper products, if its performance meets applicable specifications, it is available at the specified price preference and within a reasonable period of time. If the price of one Recycled Paper is equal to or less than another Recycled Paper which contains a higher percentage of post-consumer waste, Metro shall also give preference to the Recycled Paper with the highest percentage of post-consumer waste. To the extent feasible, unbleached Recycled Paper or Recycled Paper produced without chlorine bleach shall be selected over chlorine-bleached paper.

(b) Metro may purchase jointly with other agencies to reduce the cost of Recycled Paper. All Recycled Paper purchases shall require the manufacturer's certification of recycled content, including the percentage of post-consumer waste.

(c) Except where prohibited by existing warranties, service agreements or contracts, the Solid Waste Department shall only specify Recycled Paper in its solicitations and bids.

(d) All bids for new equipment and services shall include language to ensure that they can use Recycled Paper.

(e) All contract printing shall include the ten percent price preference for Recycled Paper.

(f) Metro shall make every effort to eliminate purchases of paper products that would be a contaminant to the in-house collection program, and to purchase products that may be recycled or reused when discarded.

(g) The use of non-recyclable goldenrod and other very bright, hard-to-bleach colored papers is prohibited.

(h) All Metro documents and correspondence shall be printed on Recycled Paper, if the Recycled Paper meets specifications, is available at the ten percent price preference, and is available within a reasonable period of time. To the extent feasible, the official Recycled Paper symbol or the words "printed on recycled content paper," followed by the percentage of post-consumer content shall be printed on documents printed at Metro or on contract printing.

2.04.540 Recycled Oil

(a) As specified in ORS 279.580 to 279.595, Metro specifications for the purchase of Lubricating Oil and Industrial Oil shall not exclude Recycled Oils. Specifications for the procurement of Recycled Oil shall be consistent with the re-refined lubricating oil purchasing guideline of the US Environmental Protection Agency. In addition, Metro shall purchase Lubricating and Industrial Oil from the seller whose product contains the greater percentage of Recycled Oil as long as the Recycled Oil:

- (1) Is available within a reasonable period of time in quantities necessary for Metro's needs;
- (2) Meets performance standards recommended by the equipment or vehicle manufacturer, including any warranty requirements; and
- (3) Is offered at a price that does not exceed the ten percent price preference for Recycled Products over comparable nonrecycled products.

(b) As stipulated in ORS Chapter 279, Metro's affirmative program for procuring Recycled Oil shall include, but not be limited to the following:

- (1) Notice of Metro's preference for Recycled Oil shall be provided in publications used to solicit bids from suppliers;
- (2) Metro shall provide a description of its Recycled Oil procurement program at bidders' conferences and in procurement solicitations or invitations to bid;
- (3) Metro shall make a good faith effort to inform industry trade associations about its Recycled Oil preference program.

(c) Metro shall specify Recycled Oils in its bids and solicitations for fleet vehicles and transport services and to the extent feasible not enter into agreements for these services with companies that restrict the use of Recycled Oils.

2.04.550 Compost Products

(a) Metro shall specify and give preference to purchase of Organic Soil Amendments made from yard debris, sewage sludge or other Organic Waste Composts rather than Compost made from nonrecycled organic materials if the Organic Soil Amendments:

- (1) are available;
- (2) meet the functional requirements of the specific application;
- (3) meet human health and plant safety standards; and
- (4) do not exceed the ten percent price preference for Recycled Products over nonrecycled products.

2.04.560 Retread Tires

(a) The Procurement Officer shall eliminate any specifications that discriminate against procurement of retread tires and shall give preference to the purchase of Retread Tires over new tires, if the Retread Tires:

- (1) are available;
- (2) meet the performance standards recommended by the equipment or vehicle manufacturer, including warranty requirements;
- (3) meet the EPA Purchasing Guideline for Retread Tires; and
- (4) do not exceed the ten percent price preference for Recycled Products over nonrecycled products.

(b) Metro shall procure retreading services for used tire cores to the extent that the retreaded tires can meet the requirements of subsection (a) of this section.

(c) Metro shall specify Retread Tires in its bids and solicitations for fleet and transport services and to the extent feasible shall not enter into agreements for these services with companies that restrict the use of Retread Tires.

204.570 Recycled Paint and Building Materials

Metro shall utilize Recycled Paint and other recycled content building materials in construction and remodeling projects if such paint or materials:

- (a) are available;
- (b) meet the functional requirements of the particular application;
- (c) meet building code regulations and design review standards; and
- (d) do not exceed the cost of nonrecycled paint or building materials by more than ten percent.

2.04.580 Promotion and Evaluation of Recycled Content Product Procurement Plan

(a) Consistent with Executive Order 47A, Metro Recycling Coordinating Committees shall include Recycled Product procurement strategies as part of their annual recycling plans. These plans shall incorporate the provisions of this ordinance as they apply to purchasing transactions and bid solicitations.

(b) To implement the provisions identified in this ordinance, Metro's Waste Reduction Division and the Procurement Officer shall provide purchasing assistance to Metro staff. This assistance may include, but not be limited to:

- (1) providing information about Recycled Products available in the Metro region;
- (2) writing procurement specifications and standards for Recycled Products in bids, solicitations, and contracts;
- (3) obtaining manufacturers' certification of recycled content;
- (4) notifying potential bidders about preferences for recycled content products in notices, bidder's conferences or elsewhere, as appropriate, and
- (5) offering workshops and seminars on Recycled Products and procurement for Metro departments and facilities.

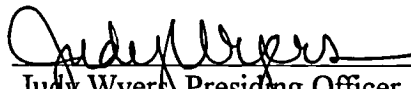
(c) Notwithstanding the provisions of this ordinance, Metro may identify and purchase new or untested Recycled Products or Materials to help develop markets for materials with low recovery rates and to improve markets for locally-generated materials. These materials and

products may include, but are not limited to, plastic products, building and construction materials, and glass aggregate with recycled content.

(d) The Waste Reduction Division shall prepare a report annually to measure the progress of the Recycled Content Product Procurement Program, and shall present the report to the Executive Officer and the Metro Council. At a minimum, this report shall include:

- (1) the amount of recycled products purchased compared to non-recycled products;
- (2) the percentage of total dollar value of Metro purchases of recycled products compared to non-recycled products;
- (3) a summary of the year's activities; and
- (4) recommendations on program modifications to increase Recycled Product procurement levels.

ADOPTED by the Metro Council this 14th day of October, 1993.



Judy Wyers, Presiding Officer

ATTEST:



Clerk of the Council

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September 8, 1993

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 93-513, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.04, ADOPTING A RECYCLED PRODUCT PROCUREMENT PROGRAM FOR METRO

Date: October 6, 1993

Presented by: Councilor McLain

Committee Recommendation: At the October 5 meeting, the committee voted unanimously to recommend Council adoption of Ordinance No. 93-513. Voting in favor: Councilors McFarland, McLain, Washington and Wyers.

Committee Issues/Discussion: Leigh Zimmerman, Solid Waste Staff, explained that the purpose of the ordinance was to provide a comprehensive Metro policy for the procurement of recycled products. She indicated that the ordinance also could serve as a model for other local governments.

Zimmerman noted that the ordinance combined several existing resolutions and ordinances related to procuring recycled products and also incorporated provisions of related state law, particularly those set forth in SB 66. The most significant policy change included in the ordinance is a provision that increases the price preference for recycled products from 5 to 10 percent. The ordinance also includes updated definitions and provides definitions of major types of recycled products such as paper, tires, and oil. Zimmerman said that the ordinance will encourage purchase of recycled plastic products. In addition, the ordinance is intended to ensure that provisions related to the purchase of recycled products are included in all bid and request for proposal documents issued by Metro.

Councilor Washington asked for a clarification that the highest price preference under the ordinance would be 10 percent. Zimmerman responded that 10 percent would be the highest preference.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 93-513 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.04, ADOPTING A RECYCLED PRODUCT PROCUREMENT PROGRAM FOR METRO

Date: September 15, 1993

Presented by: Leigh Zimmerman

PROPOSED ACTION

Adoption of Ordinance No. 93-513 establishes a comprehensive recycled product procurement ordinance for Metro. The ordinance consolidates state law with existing Metro ordinances on purchasing recycled paper and organic soil amendments; and with a resolution on use of retread tires. It increases the price preference Metro will give to recycled products from five to ten percent. The comprehensive ordinance will be incorporated into the Metro Code, Chapter 204. Ordinance numbers 89-280, and 89-303; and resolution number 89-1099 are repealed.

FACTUAL BACKGROUND AND ANALYSIS

The extensive purchasing power of the public sector helps drive demand for goods and services. This purchasing power is an important tool to develop markets for recycled products and therefore close the recycling loop. The federal government alone spends billions of dollars annually on products. A recent survey of federal agencies determined they use 300,000 tons of paper each year. The state of Oregon spent approximately \$160 million on products in 1992-93. In addition to increasing demand for recycled materials, government procurement can be the catalyst for entrepreneurship, business expansion and new products. It also provides a model for private sector purchasing.

In 1991, the Oregon Legislative Assembly passed the Oregon Recycling Act. It includes provisions requiring public agencies in Oregon to eliminate discrimination against procurement of recycled products, and to develop practices which encourage purchase of these items. It stipulates that all public agencies adopt a procurement program for recycled paper, oil and tires; and directs them to pay a minimum five percent price preference for recycled products that meet the same performance standards as non-recycled products.

Promoting "buy recycled" is an important part of Metro's waste reduction program. Metro's in-house program and policies are a model for other public agencies and the business community. Metro purchases recycled paper products and used some recycled content building materials in the "Resourceful Renovation" of the headquarters building. However, procurement of other recycled products has not been significant.

This ordinance will strengthen existing policies and allow Metro to pay a ten percent price preference to vendors and contractors who have included recycled products in their bids. This price preference is five percent greater than required by state law and existing ordinances. However it is comparable to preferences instituted in Seattle and King County, Washington; and Oregon's Department of General Services. It is consistent with Metro's leadership position in waste reduction.

The comprehensive ordinance includes specific language on recycled paper, oil, compost products, retread tires, paint and building materials and strengthens provisions to solicit recycled products and materials in bid documents. It establishes an in-house promotion program through which the Procurement Officer and Waste Reduction Division will assist in-house purchasers and outside contractors to select available products, determine recycled content and obtain cost comparisons.

BUDGET IMPACT

The ten percent price preference may result in higher costs for certain expenditures where recycled products are available but not cost competitive with non-recycled products.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 93-513.

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METRO

DATE: October 18, 1993
TO: Rena Cusma, Executive Officer
FROM: Paulette Allen, Clerk of the Council
RE: TRANSMITTAL OF ORDINANCE NOS. 93-513, 93-511 AND 93-512

Attached for your consideration are true copies of the ordinances referenced above adopted by the Council on October 14, 1993.

If you wish to veto any of the ordinances referenced above, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Thursday, October 21, 1993. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time and date stated above, these ordinances will be considered finally adopted.

I, Unette Sherby, received this memo and true copies of Ordinance Nos. 93-513, 93-511 and 93-512 from the Clerk of the Council on 10-18-93.