



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by Paul D. Froehlich, Karen May

SYNOPSIS AS INTRODUCED:

30 ILCS 500/Art. 33 heading new
30 ILCS 500/33-1 new
30 ILCS 500/33-5 new
30 ILCS 500/33-10 new
30 ILCS 500/33-15 new
30 ILCS 500/33-20 new
30 ILCS 500/33-25 new
30 ILCS 500/33-30 new
30 ILCS 500/33-35 new
30 ILCS 500/33-40 new
30 ILCS 500/33-45 new
30 ILCS 500/45-15
30 ILCS 500/45-20
30 ILCS 500/45-25

Amends the Illinois Procurement Code. Requires that State agencies purchase recycled and recyclable products to meet their procurement needs. Requires that State contractors perform State contracts with recycled and recyclable products. Exempts products for which recycled or recyclable alternatives are not adequate, reasonably available, or reasonably priced. Requires that minimum content standards be established. Designates certain products as available with significant levels of recycled or recyclable material. Imposes various related duties upon the Procurement Policy Board, chief procurement officers, State agencies, contractors, and bidders. Replaces the 10% preference for recycled materials with a 5% preference for recycled products meeting certain federal specifications. Effective January 1, 2005.

LRB093 18785 JAM 44519 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning procurement.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by
5 adding the heading of Article 33 and Sections 33-1, 33-5,
6 33-10, 33-15, 33-20, 33-25, 33-30, 33-35, 33-40, and 33-45 and
7 changing Sections 45-15, 45-20, and 45-25 as follows:

8 (30 ILCS 500/Art. 33 heading new)

9 ARTICLE 33 ENVIRONMENTALLY RESPONSIBLE PROCUREMENTS

10 (30 ILCS 500/33-1 new)

11 Sec. 33-1. Application.

12 (a) This Article applies to all procurements subject to
13 this Code. If a provision of any other Article of this Code
14 conflicts with a provision of this Article, the provision of
15 this Article shall apply.

16 (b) This Article applies to invitations and requests for
17 proposals made and contracts awarded after the effective date
18 of this amendatory Act of the 93rd General Assembly.

19 (30 ILCS 500/33-5 new)

20 Sec. 33-5. Definitions. As used in this Article:

21 "Designated products" means all products that have been or
22 may be identified pursuant to Section 33-15 as products that
23 can be procured with significant levels of recovered materials.

24 "Minimum content standards" means standards set by the
25 State or, in their absence, standards or guidelines currently
26 promulgated by the United States Environmental Protection
27 Agency, specifying the minimum level of recovered materials or
28 post-consumer material, or both, necessary for designated
29 products to qualify as recycled products.

30 "Paper and paper products" means all items manufactured

1 from paper or paperboard.

2 "Post-consumer paper material" means paper, paperboard,
3 and fibrous waste including corrugated boxes, newspapers,
4 magazines, mixed waste paper, tabulating cards, and used
5 cordage after the point at which they have passed through their
6 end use as consumer items.

7 "Post-consumer material" means only those products
8 generated by a business or consumer that have served their
9 intended end uses and that have been separated or diverted from
10 the solid waste stream for the purposes of collection,
11 recycling, and disposition.

12 "Practicable" means (1) able to perform in accordance with
13 applicable specifications; (2) available at a reasonable price
14 offered as the low bid under the procedures in this Code; (3)
15 available within a reasonable period of time; and (4)
16 maintaining a satisfactory level of competition.

17 "Recovered material" means material and byproducts that
18 have been recovered or diverted from solid waste, but does not
19 include those materials and byproducts generated from, and
20 commonly reused within, an original manufacturing process
21 (such as mill broke or home scrap).

22 "Recovered paper material" means paper waste generated
23 after the completion of a paper making process, such as
24 post-consumer material, envelope cuttings, bindery trimmings,
25 printing waste, cutting and other converting waste, butt rolls,
26 and mill wrappers; obsolete inventories; and rejected unused
27 stock. Recovered paper material, however, shall not include
28 fibrous waste generated during the manufacturing process such
29 as fibers recovered from waste water or trimmings of paper
30 machine rolls (mill broke), fibrous byproducts of harvesting,
31 extractive or woodcutting processes, or forest residue such as
32 bark.

33 "Recycled designated product" means a product designated
34 pursuant to Section 33-15 that meets or surpasses the State's
35 minimum content standards and all other criteria for
36 qualification as specified in this Code.

1 "Reusable product" means a product that can be used several
2 times for an intended end use before being discarded, such as a
3 washable food or beverage container or a refillable ball point
4 pen.

5 "Recycle or Recycling" means any process by which materials
6 that would otherwise become waste are collected, separated, or
7 processed and returned to the economic mainstream in the form
8 of new, reused, or reconstituted products, but does not include
9 the recovery of materials for fuel in combustion or energy
10 production processes. For lubricating oil, the term recycling
11 is to be synonymous with re-refining. For toner cartridges, the
12 term recycling is to be synonymous with re-manufacture.

13 "Recyclable" means that the product is technically capable
14 of being recycled and that economic markets for collecting and
15 recycling the product exist within a reasonable distance,
16 including steel and plastic.

17 "Chlorine-free paper or paper products" means (1) recycled
18 paper in which the recycled content is unbleached or bleached
19 without chlorine or chlorine derivatives or (2) virgin paper
20 that is unbleached or processed with a sequence that includes
21 no chlorine or chlorine derivatives.

22 (30 ILCS 500/33-10 new)

23 Sec. 33-10. Environmentally responsible procurements.

24 (a) Whenever practicable, all State agencies shall meet
25 their procurement demands with recycled products and
26 recyclable products.

27 (b) Whenever practicable, the State shall require
28 contractors to perform State contracts with recycled products
29 and recyclable products.

30 (c) When specifying designated products under this
31 Article, the State shall require recovered material content or
32 post-consumer material content, or both, to be factors in
33 determining the lowest responsible bid in any competitive bid
34 selection process.

1 (30 ILCS 500/33-15 new)

2 Sec. 33-15. Designated products and recycled designated
3 products. For purposes of this Article, the products listed in
4 this Section are designated as products that can be readily
5 procured with significant levels of recovered materials.
6 Designated products shall qualify as recycled designated
7 products if they meet minimum content standards established
8 pursuant to this Article. Designated products shall include:

9 (1) Paper and paper products.

10 (2) Compost products.

11 (3) Horticultural mulch made with recycled
12 landclearing and other wood debris.

13 (4) Construction aggregates made with recycled cement
14 concrete, tire rubber, glass, or asphalt.

15 (5) Cement and asphalt concrete containing glass
16 cullet, recycled fiber or plastic, or tire rubber.

17 (6) Antifreeze.

18 (7) Recycled plastic products, including lumber
19 shapes, refuse carts, traffic cones, insulation,
20 receptacle liners, recycling bins, traffic barriers, and
21 office products.

22 (8) Retreaded tires and products made from recycled
23 tire rubber, including rubber mats and playfield surfaces.

24 (9) Toner cartridges for computer printers.

25 (10) Lubricating oil and hydraulic oil with re-refined
26 oil content.

27 (11) Insulation products.

28 (12) Paint.

29 (13) Wood products containing 50% or more reused or
30 deconstructed wood.

31 (14) Carpeting made from recycled fibers.

32 (15) Office furniture.

33 (16) All steel products.

34 (17) Other products as designated by each chief
35 procurement officer.

1 (30 ILCS 500/33-20 new)

2 Sec. 33-20. Requirements for procurement contracts.

3 (a) Invitations to bid issued for the purchase of tangible
4 goods shall contain no terms, requirements, or specifications
5 prohibiting or discouraging post-consumer or recovered
6 material content, unless the purchasing agency provides the
7 appropriate chief procurement officer with satisfactory
8 evidence that, for technical reasons and for a particular end
9 use, a product containing such materials will not meet
10 reasonable performance standards.

11 (b) In determining the lowest responsible bid for the
12 purchase of designated products pursuant to, Section 33-15, the
13 purchasing agency shall use the procedures and evaluation
14 criteria specified in this Article. If the lowest price offered
15 for a recycled designated product is not more than the
16 specified percentage higher than the lowest offered price for
17 that same designated product that is not recycled, the offered
18 price for the recycled designated product shall be considered
19 the low bid if such bidder is otherwise responsible. The
20 specified percentage will not be less than 10%. However,
21 nothing contained in this Article shall preclude State agencies
22 from requiring post-consumer or recovered material content as a
23 bid specification.

24 (c) Each contractor supplying the State with recycled
25 designated products shall provide acceptable certification
26 from all product manufacturers that the products being supplied
27 meet or surpass minimum content standards and shall agree to
28 reasonable verification procedures specified by the purchasing
29 agency.

30 (d) Invitations to bid for designated products, whether
31 recycled or not, shall require the bidders, if awarded a
32 contract, to provide quarterly summaries of the quantities
33 purchased by State agencies, unless the appropriate chief
34 procurement officer determines that this requirement would
35 significantly reduce the number of bids received.

36 (e) The State shall not purchase any item whose original

1 manufacturer places restrictions on the remanufacturing of
2 such item by other businesses.

3 (30 ILCS 500/33-25 new)

4 Sec. 33-25. Procurement of paper and paper products.

5 (a) The Procurement Policy Board shall adopt minimum
6 content standards for recycled paper products. Minimum content
7 standards shall, at minimum, be consistent with standards
8 currently promulgated by the United States Environmental
9 Protection Agency, unless the Board determines that a different
10 standard would significantly increase recycled product
11 availability or competition.

12 (b) The Board shall use a percentage factor of at least 10%
13 in the process of determining the lowest responsible bidder for
14 paper and paper products. For paper or paper products that are
15 both recycled and chlorine-free, the percentage factor shall
16 not be less than 15%. The Board may elect to establish higher
17 percentages.

18 (c) All imprinted letterhead paper, copy paper, computer
19 printer paper, and note pads used by State agencies shall be
20 recycled paper containing at least 30% post-consumer content.

21 (d) Printing press services provided by the State or
22 purchased by the State shall utilize soy or other
23 vegetable-based inks. If lithographic ink is used in printing
24 performed by the State or in printing services purchased by the
25 State, the ink shall contain not less than the following
26 percentages of vegetable oil:

27 (1) News ink, 40%;

28 (2) Sheet-fed and forms ink, 20%;

29 (3) Heat-set ink, 10%.

30 High quality color process printing on high speed heat-set
31 presses is exempt when slow drying time significantly increases
32 production costs.

33 (e) State agencies shall publicize the State's use of
34 recycled paper by printing the words "Printed on Recycled
35 Paper" on all letterhead paper and on the title page of all

1 reports printed on recycled paper.

2 (f) To reduce the volume of paper purchased, State agencies
3 shall use both sides of paper sheets whenever practicable.

4 (g) All bids for new equipment and services shall include
5 language that will encourage the use of recycled paper and
6 paper products, wherever practicable.

7 (h) State agencies shall phase in equipment to facilitate
8 the use of recycled paper products, wherever practicable.

9 (i) In instances where recycled paper and paper products
10 may void existing warranties, service agreements, or
11 contracts, recycled paper and paper products shall not be
12 specified.

13 (j) Requests for proposals shall require all proposed
14 contractors to agree to the following as a precondition to
15 contract awards:

16 (1) All reports submitted to State agencies by a
17 contractor in fulfillment of contract obligations shall
18 use recycled paper when it is available at a reasonable
19 price. For the purpose of this subsection, the price of
20 recycled paper shall be considered "reasonable" if its cost
21 is no more than 10% higher than the lowest price offered
22 for non-recycled paper.

23 (2) Reports submitted to State agencies shall use both
24 sides of paper sheets whenever practicable.

25 (3) The contractor shall maintain records of purchased
26 paper and paper products, including product description,
27 supplier, amount purchased, unit prices, and
28 justifications for any use of non-recycled paper. This
29 information shall be submitted to the purchasing agency
30 before contract expiration, according to procedures to be
31 established by each chief procurement officer. The
32 contractor shall be responsible for maintaining records
33 and submitting the information for all of its
34 subcontractors.

35 (k) Printing services purchased by the State shall be on
36 recycled paper containing at least 30% post-consumer content.

1 (30 ILCS 500/33-30 new)

2 Sec. 33-30. Annual report. Each State agency shall submit
3 to its chief procurement officer a report evaluating
4 procurements under this Article, including the following
5 components:

6 (1) Quantities of designated products purchased by the
7 State agency.

8 (2) Quantities and types of recycled products
9 purchased.

10 (3) Prices and relative quantities purchased of
11 recycled and non-recycled designated products.

12 (4) A determination as to whether minimum content
13 standards should be changed or remain the same.

14 (5) An assessment of the effectiveness of this Article
15 and an evaluation of its goals.

16 (6) Recommendations for changes in procurement policy
17 under this Article, including designation of additional
18 products.

19 (30 ILCS 500/33-35 new)

20 Sec. 33-35. Responsibilities and reporting requirements of
21 State agencies. All State agencies are responsible for:

22 (1) Purchasing and using recycled products whenever
23 practicable.

24 (2) Documenting any technical problems that preclude
25 the use of recycled products.

26 (3) Providing written explanations to the appropriate
27 chief procurement officer for not purchasing recycled
28 products.

29 (4) Conducting comparative tests of the performance of
30 recycled products and non-recycled products, as requested
31 by a chief procurement officer.

32 (5) Transmitting to contractors, upon their request,
33 information about their recycled products and vendors.

34 (6) Collecting information from contractors about

1 their designated product purchases before contract
2 expiration dates.

3 (7) Informing the appropriate chief procurement
4 officer of potential uses of recycled products by
5 contractors.

6 (30 ILCS 500/33-40 new)

7 Sec. 33-40. Responsibilities of chief procurement
8 officers. Each chief procurement officer is responsible for:

9 (1) Disseminating recycled product information to
10 State agencies.

11 (2) Assisting State agencies in resolving problems and
12 complaints concerning recycled product performance or
13 availability.

14 (3) Revising or amending standard bid documents and
15 contract language where necessary to implement this
16 Article.

17 (4) Adopting and updating minimum content standards
18 for designated recycled products other than recycled paper
19 products.

20 (30 ILCS 500/33-45 new)

21 Sec. 33-45. Exemptions. Nothing in this Article shall be
22 construed as requiring a State agency or contractor to procure
23 products that do not perform adequately for their intended end
24 use or are not available at a reasonable price in a reasonable
25 period of time.

26 (30 ILCS 500/45-15)

27 Sec. 45-15. Soybean oil-based ink. Contracts requiring the
28 procurement of printing services shall specify the use of
29 soybean oil-based ink unless a State purchasing officer
30 determines that another type of ink is required to assure high
31 quality and reasonable pricing of the printed product.

32 This Section is subject to the provisions of Article 33 of
33 this Code.

1 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

2 (30 ILCS 500/45-20)

3 Sec. 45-20. Recycled materials. The State of Illinois shall
4 meet the buy-recycled requirements of Section 6002 of the
5 federal Resource and Conservation Act (RCRA), and the State and
6 all State-supported institutions shall exclusively purchase
7 products from the federal Environmental Protection Agency's
8 Comprehensive Procurement Guidelines, unless the cost of
9 non-recycled products is 5% less than the cost of
10 recycled-content products. This Section is subject to the
11 provisions of Article 33 of this Code. ~~When a public contract~~
12 ~~is to be awarded to the lowest responsible bidder, an otherwise~~
13 ~~qualified bidder who will fulfill the contract through the use~~
14 ~~of products made of recycled materials may, on a pilot basis or~~
15 ~~in accordance with a pilot study, be given preference over~~
16 ~~other bidders unable to do so, provided that the cost included~~
17 ~~in the bid of products made of recycled materials is not more~~
18 ~~than 10% greater than the cost of products not made of recycled~~
19 ~~materials.~~

20 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

21 (30 ILCS 500/45-25)

22 Sec. 45-25. Recyclable paper. All paper purchased for use
23 by State agencies must be recyclable paper unless recyclable
24 paper cannot be used to meet the requirements of the State
25 agencies or does not meet the requirement of Section 45-20.
26 State agencies shall determine their paper requirements to
27 allow the use of recyclable paper whenever possible, including
28 without limitation using plain paper rather than colored paper
29 that is not recyclable.

30 This Section is subject to the provisions of Article 33 of
31 this Code.

32 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

33 Section 99. Effective date. This Act takes effect January

1 1, 2005.