

State Agency Buy Recycled Campaign Results for Fiscal Year 2012-2013



California Department of Resources Recycling and Recovery

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STATE OF CALIFORNIA

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Overview

Public Resources Code Section 12211 (c) and (d) requires CalRecycle to annually provide an agency-specific report to the Legislature identifying all State Agency Buy Recycled Campaign (SABRC) purchases, reporting figures, and every three years as part of the report, include recommendations for program improvement.

This report summarizes post-consumer recycled content procurement activity by state agencies, based on their 2012/2013 SABRC Annual Reports; technical assistance provided to state agencies; the status of ongoing efforts with the Department of General Services (DGS), the Air Resources Board (ARB), and FI\$Cal to further recycled-content procurement; and potential changes to improve the program. Appendix A provides details on product categories with low purchase rates. Information about agency-specific and statewide compliance is also available on the [CalRecycle Website](#).

State government procurement decisions are directly linked to the climate change goals of AB 32 (Nunez, Chapter 488, Statutes of 2006) and the 75 percent statewide recycling goal of AB 341 (Chesbro, Chapter 476, Statutes of 2011). These purchasing decisions impact the greenhouse gas (GHG) emissions and the carbon footprint of state operations, and offer an opportunity to increase markets for post-consumer recycled-content (PCRC) products, which will be critical to AB 341's focus on strengthening recycling manufacturing markets. Accordingly, the ARB's Scoping Plan Update and CalRecycle's interim AB 341 Report to the Legislature identify increased state procurement as priorities.

According to SABRC reporting, in 2012/2013 state agencies spent \$306 million in SABRC purchasing categories, of which about \$192 million of these purchases were SABRC compliant or PCRC products. In 2011/2012 state agencies spent \$185 million in SABRC purchasing categories, of which \$130 million of these purchases were SABRC compliant. While the total dollars spent on SABRC compliant purchases in 2012/2013 increased from the previous year, the relative percentage of total SABRC purchasing categories compared to the SABRC purchases decreased from the previous year (see Table 1 below).

More important, \$192 million is still only about 13 percent of the approximate \$1.5 billion of state product purchases in 2012, a percentage that likely would be even lower when considering the approximate \$12.8 billion spent on services (where the products purchased may not be reported separately from the services rendered).

When looking at total state product purchases the SABRC program is vastly under-achieving its potential and changes are needed to provide greater direction and state agency accountability and to facilitate implementation. While it is possible to implement some improvements without statutory changes, a more substantial and enduring approach is needed to ensure that expectations and reforms are codified. Thus, potential ideas for statutory changes to improve SABRC and state procurement of recycled-content products include, but are not limited to:

- Clarify that SABRC pertains to all state procurement, including contractors that are hired by state agencies;

- Change and refine the SABRC product categories (e.g., to include lumber, textiles, concrete) and update some minimum content requirements;
- Provide authority to CalRecycle to address non-compliance with SABRC, similar to the AB 75 (Strom-Martin, Chapter 764, Statutes of 1999) compliance process;
- Ensure mandatory training and require recycled-content product reporting, including state agencies with delegated purchasing authority;
- Require state carpet installations to be managed under the Carpet Stewardship Program.

Summary of Procurement Results

Public Contract Code Sections 12200-12217 requires state agencies to choose products made with PCRC and requires state agencies to report annually to CalRecycle on the results of their recycled-content purchases within 11 categories of material types. Public Resources Code Section 12211 (c) and (d) also requires CalRecycle to annually provide an agency-specific report to the Legislature identifying all SABRC purchases, reporting figures and, every three years as part of the report, include recommendations for program improvement.

Participation: This past fiscal year, 210 state agencies, large state facilities, district agricultural associations (fairs), and the state university system were required to report their recycled content product purchases by Oct. 31, 2013.* A total of 207 state agencies reported to CalRecycle by February 2014. The following three District Agricultural Associations (DAA) failed to submit a report: 26th DAA (Amador County), 27th DAA (Shasta County) and 28th DAA (San Bernardino County). All non-reporting agencies were offered assistance, but failed to submit a SABRC report even after repeated contact by staff. These agencies cited non-submittal due to lack of funding, reduced staff resources to track purchases, and change in personnel. CalRecycle staff continues to be in contact with the agencies to provide additional assistance.

Existing law does not provide any enforcement or penalty mechanism for non-compliance. The only method of recourse CalRecycle has for addressing non-submittals is for CalRecycle's Director to alert other agency and department directors about non-responsive agencies, and for CalRecycle to forward a list of non-reporting and non-complying agencies to DGS for notation during an annual DGS review of those agencies in relation to delegated purchasing authority. Accordingly, CalRecycle will send non-submitting agencies' directors a letter requesting submittal of the report by a specified date, as well as notifying DGS' Purchasing Authority unit. For those agencies that are not compliant with the SABRC purchasing requirements, CalRecycle will follow up to provide education and assistance at no cost to those agencies, and will refer selected agencies to DGS Purchasing Authority unit as part of the annual review of delegated purchasing authority (see below in *Ongoing Collaboration with DGS* for more details).

* Note: The names and number of reporting agencies may have changed compared to FY 2011/2012 due to facility closures, restructuring, mergers, or agency elimination by the Governor's budget. The EPP legislation they follow doesn't mention recycled content.

Compliance: The FY 2012/2013 reported results show an overall increase in total dollars spent from the past two years, which may be due to improved economic conditions (Table 1). This increase, however, is accounted for almost totally by increased expenditures in the metal products category (see Table 2). In addition, although total dollars spent is up, the percentage of SABRC-compliant purchases decreased from the previous reporting year (Table 1).

Table 1 – Overall Statewide SABRC Purchasing[†]

Report Year	Total SABRC Reportable Dollars	Total SABRC Compliant Dollars	% SABRC Compliant Spending
2012/2013	\$306 million	\$192 million	62%
2011/2012	\$185 million	\$130 million	70 %
2010/2011	\$139 million	\$ 84 million	60 %

Some SABRC product categories consistently show either high or low compliant spending. Table 2 documents the statewide percentage of compliant purchasing for FY 2012/2013 by category. Notably, 6 of the 11 product categories show compliance rates of 50 percent or higher. The Metal Products category accounted for the majority of the overall increase in statewide SABRC purchasing. Table 2 also illustrates several product categories that show low spending compliance, such as antifreeze, paint, retread tires, glass, and lubricating oils. Antifreeze, paint, and retread tires are three categories that have been historically low. A number of factors can influence lower compliance rates, including: state agency staff turnover, SABRC not being a priority for state agency management, limited vendor education, limited product availability in some categories, inaccurate reporting, and commodity-specific factors. Appendix A provides additional explanation regarding the low compliance for these categories and CalRecycle’s staff plans to help address some of the barriers. In addition, as noted above, delegated purchasing authority allows some agencies to purchase commodities and services independent of DGS’ Procurement Division.

[†] Figures based on state spend as reported by state agencies in the SABRC Annual Report System.

Table 2 – Statewide SABRC Purchasing by Product Category[‡]

Product Category	Total SABRC Reportable Dollars	Total SABRC Compliant Dollars	% SABRC Compliant Spending	No. of Agencies Reporting in each Category
Antifreeze	\$ 588,139.89	\$ 173,254.49	29%	36
Compost, Co-compost, Mulch	\$ 2,164,972.60	\$ 2,078,100.82	95%	31
Glass Products	\$ 2,206,394.56	\$ 874,047.16	39%	68
Lubricating Oils	\$ 1,659,901.51	\$ 760,852.16	45%	70
Metal Products	\$ 218,885,734.17	\$ 137,990,022.08	63%	162
Paint	\$ 824,149.78	\$ 180,056.61	21%	72
Paper Products	\$ 22,353,206.95	\$ 15,438,306.84	69%	191
Plastic Products	\$ 23,339,600.00	\$ 14,162,873.09	60%	182
Printing and Writing Paper	\$ 30,855,104.86	\$ 19,230,147.04	62%	192
Tire-Derived Products	\$ 550,099.20	\$ 432,574.17	78%	39
Tires	\$ 3,443,571.88	\$ 716,503.46	20%	72
Totals	\$ 306,870,875.40	\$ 192,036,737.92	62%	

Assistance to State Agencies

Last year CalRecycle worked with the following agencies to discuss their purchasing practices (in certain categories): California Exposition and State Fair; California Department of Transportation; California National Guard; Porterville Developmental Hospital; Sonoma Developmental Center; Valley State Prison for Women; and California State University Chancellor’s Office and its 23 campuses. As a result of this follow-up with each targeted agency, CalRecycle has gained insight into each agency’s purchasing needs, and has assisted these agencies with education and improved SABRC tracking.

As a follow-up to the FY 2012/2013 reporting, staff will target the following agencies to discuss their purchasing practices, address any reporting issues, and identify opportunities to increase SABRC compliant purchases. These agencies were selected for follow-up assistance because all of these reporting agencies did not meet their SABRC purchasing requirements and have purchases in some product categories above \$500,000 per year. The agencies include: California Department of Transportation (Caltrans); California State University (CSU) Chancellor’s Office, including CSU’s select campuses; California Highway Patrol; High Desert State Prison; and Chuckawalla Valley State Prison. Last year, CalRecycle gained insight into

[‡] Figures based on state spending as reported by state agencies in the SABRC Annual Report System.

the business practices and infrastructure of Caltrans and CSU and provided assistance. We would like to gain more information on their individual regions or campuses. Cumulatively, Caltrans and CSU are the top spenders in multiple product categories. However, each region or campus has different purchasing needs. CalRecycle hopes to consult with those regions and campuses that are doing well and find the barriers for those agencies that are contributing to low or non-compliance. The California Highway Patrol, High Desert State Prison, and Chuckawalla Valley State Prison are non-compliant in the plastics and paper product categories. In addition, there are new, low, non-compliant categories that may be linked to staff turnover and/or lack of training.

Ongoing Collaboration with DGS

Existing law requiring the purchase of recycled-content products was first enacted in 1989 (25 years ago), broadened in the mid-1990s, and revised/consolidated in 2005. As with any program, CalRecycle is examining ways in which the program can, or should be, adapted or modified to continue to meet its statutory objectives. As noted above, reporting agencies spent more than \$306 million within the 11 SABRC purchasing categories, with post-consumer recycled-content purchases amounting to \$192 million. However, these compliant SABRC purchases are only an estimated 13 percent of the approximate \$1.5 billion in state commodity purchases.[§] This percentage would likely be even lower if the goods purchased under state service contracts were included.

Ongoing and potential opportunities for collaboration between CalRecycle and DGS include:

- Currently, CalRecycle supports DGS' enhanced annual delegated purchasing authority renewal process, under which a state agency's compliance status with respect to SABRC could be used to identify agencies that need additional outreach and training for meeting purchasing requirements. Over one-half of state purchases are conducted outside of DGS' Procurement Division. Agencies with delegated and/or statutory authority may purchase goods and services independently, including through service contracts where agencies may not report these expenditures separately from the services rendered. CalRecycle and DGS have established a communication process that includes CalRecycle identifying agencies not meeting their SABRC requirements, reporting that information to DGS, and working with DGS to target additional outreach, assistance, and training to those agencies. In addition, DGS will issue a deficiency notice to the agency at the time of its annual purchasing authority renewal. DGS will give the agency time to fix the deficiency and communicate with CalRecycle to verify resolution.
- CalRecycle is also a member of the Performance and Environmental Standards (PES) workgroup, which is a subset of the Purchasing Authority Round Table (PART). These workgroups meet monthly concerning the improvement and streamlining of purchasing specifications, policies, and procedures, and are comprised of an invited group of key delegation buyers from multiple agencies and Prison Industry Authority (PIA). The PES

[§] Figure based on IT & Non-IT Goods purchases as reported in eSCPRS (DGS' Electronic State Contract and Procurement Registration System).

workgroup also includes environmental subject matter experts where needed. The goal of the workgroup, in particular, is to promote SABRC and statewide environmentally preferable purchasing throughout DGS and all agencies and departments. Specifically for PES, CalRecycle's assistance has included comments and edits to a DGS Standard Specification Guide, product specifications (for selected commodities), State Contracting Manual updates, and the creation of a SABRC survey for PES and PART members, as well as brainstorming ways to better educate state agency buyers about SABRC.

- Collaborating with DGS on implementing Governor Brown's Executive Order (B-18-12) related to existing buildings, which resulted in changes to the State Contracting Manual (SCM, Volume 2, Chapters 3 and 12 and SCM Volume 3, Chapters 3 and 12), as well as revisions and updates to the State Administrative Manual (SAM, Chapter 1900). CalRecycle is leading the Recycling and Waste Diversion workgroup and participating in other groups related to building and grounds (as part of the DGS Sustainability Taskforce).
- Increasing communication and collaboration with the Prison Industry Authority to increase awareness about SABRC. According to Penal Code Section 2807, a department must first consider if PIA can fulfill the department's need prior to purchasing an item from commercial suppliers. Furthermore, state procurement procedures state that PIA should be the first source for purchases, with the second being state contracts governed by DGS, followed by all other sources. PIA instructs state agencies to request a waiver if PIA is unable to provide a requested product. PIA already does identify PCRC products on its website. With PIA's critical role in the procurement process, a formal channel of communication will provide the most up-to-date information to all state agency procurement personnel on SABRC guidelines and standards.

Financial Information System for California (FI\$Cal) and SABRC Integration

The Financial Information System for California (FI\$Cal, <http://www.fiscal.ca.gov/>) is a business transformation project for the State of California to combine accounting, budgeting, cash management, and procurement operations into a single financial management system. Throughout 2012 and 2013, in a greater effort to track the procurement of SABRC products, CalRecycle has been working with DGS to seek inclusion of such data in FI\$Cal.

In 2013, CalRecycle staff worked with the FI\$Cal team to further define and enhance SABRC reporting criteria, and FI\$Cal accepted inclusion of the SABRC requirements and recommended enhancements into the state's new information system. In particular, CalRecycle proposed the addition of the following categories: carpet (formerly in plastics); janitorial products (formerly in paper products); IT/Electronics (Electronic Product Environmental Assessment Tool Standard); open office panel systems; printer or duplication cartridges (formerly in plastics); and the option to choose if a product was not SABRC compliant but Environmentally Preferable Purchasing compliant or neither. CalRecycle also recommended the addition of multi-tier percentage ranges for the amount of post-consumer recycled content in SABRC products to gain more information on products purchased and availability. This should assist state agency purchasers by providing

more knowledge about the percentage of PCRC in a product and more insight on the products available and their percent of recycled-content purchases.

In March 2014, the FI\$Cal Training Team will include CalRecycle in the review of training materials that cover SABRC/EPP topics. Later, CalRecycle will also be included in training and testing of the new system.

Appendix A: Categories with Low Purchasing Rates

This section addresses the three categories with low SABRC compliant procurement rates and why the rates are low.

- **Antifreeze**—This category has consistently been below expectations for compliance rates, but increased to 29 percent in FY 2012/2013. The previous two years also had low rates of compliance, 7 percent and 5 percent, respectively. State agencies can buy this commodity on their own and there is no statewide contract. Agencies have commented that recycled antifreeze is hard to find, and agencies cannot control the choice of products sold or used by contracted vendors. The largest purchaser of antifreeze was Caltrans, with zero percent compliance out of total purchase of \$202,730 (these numbers are approximately the same as the prior year).

The Department of Transportation's and PIA's overall purchases represent 88 percent of the money spent in this product category. Therefore, this alters the statewide ratio of compliance, despite the other agencies that purchased antifreeze. A plausible explanation for the low purchasing amount may be that state cars are sold before the antifreeze needs to be changed. Many vehicle manufacturers recommend 100,000 miles before antifreeze change-out and current state vehicle policy has a replacement schedule for vehicles at 100,000 miles. Market research is needed to determine existing availability of recycled antifreeze, and to consider its current applicability and relevance as a SABRC category.

- **Paint**—The statewide compliance rate for post-consumer recycled-content latex paint reached 21 percent in FY 2012/13, although overall state spending for paint decreased again this year to \$824,150, compared to \$935,360 the year before. The reduced spending could be attributed to budget reductions for different agencies. The overall compliance rate for recycled paint has been low for many years, including the two years prior to this reporting year (12 percent and 10 percent, respectively), in part because some of the largest spending agencies are not buying recycled-content paint.

Again, the California State University Chancellor's Office spent the highest dollar amount at \$325,133, with only \$29,056 in SABRC-compliant purchases (8 percent, up from 2 percent the previous year). CalRecycle began outreach in 2011 to the CSU Chancellor's Office, which compiles data from all campuses. CalRecycle has recently gained more detailed information on purchases by each of the 23 CSU campuses. CalRecycle will continue to

follow up to determine which California State University campuses are having the most impact on these statistics.

Other agencies commented in their reports that recycled paint is hard to find and not available locally, or not available in smaller quantities, and that recycled paint does not come in the colors needed. It also is possible that a large volume of paint is purchased as part of service contracts, under which the paint type has generally not been prescribed and rather the choice of paint has been left to the painting contractor. Thus, a primary issue in increasing SABRC-compliant purchasing has been ongoing state agency and contractor education. Agencies and contractors need to be made aware of recycled paint manufacturers, the state contract, as well as the cost-saving benefits of buying recycled paint. In addition, many agencies do not appear to request color matching or samples, although the state's supplier provides the service (and other vendors may as well).

DGS published recycled paint purchasing specifications whereby recycled paint must meet the same performance specifications as virgin paint, which should help. This is reflected in the statewide recycled latex paint contract that was renewed in October 2012 for exterior paint. (DGS provides the public with information, specifications, and links to paint contracts on its Buying Green website). To further promote the new contract, CalRecycle will continue to provide information to all SABRC Report Coordinators. CalRecycle will continue this year to inform agencies about the availability of the state paint contract via email and provide a link to DGS' Buying Green website regarding the state contract, as well as educating state procurement staff about the benefits of using recycled paint.

These efforts could also be supported through policy changes (for example, in the State Administrative Manual) that require consideration of recycled paint by contractors and subcontractors when used in state facilities. This type of policy would supplement outreach and education with a compliance approach and would likely increase the quantity of recycled paint purchased annually.

- **Retread Tires**—The overall purchasing compliance rate is 20 percent, which is a 9 percent improvement over last year, but there was a 65 percent decrease in the reportable dollars spent on retread tires. This could possibly be a result of a reduction in the state's vehicle fleet. However, the overall compliance rate has remained low primarily due to the fact that some of the highest-spending agencies are not buying retreads (such as the California Highway Patrol). Again, this alters the overall statewide compliance for all other reporting agencies. Some state agencies pointed out that retreads could not be used for certain vehicles; they referred to California law restricting the placement of retreaded tires (namely Public Resource Code Section 42400 et seq.) on emergency vehicles.

Several agencies noted that retreads overall are hard to find or not available, especially for passenger vehicles. Market availability for retreaded passenger tires remains extremely low in California and retreads for other vehicles may be compromised by new low-rolling restraint tire regulations issued by ARB.