

SUBCHAPTER G : NEWSPRINT RECYCLING
§§328.100 - 328.105
Effective September 5, 1999

§328.100. Purpose and Definitions.

(a) Purpose. These sections set forth newsprint recycling requirements for newsprint manufacturers and newspaper publishers. The sections contain recordkeeping and reporting procedures with respect to the utilization of recycled-content newsprint in newspaper publishing operations. These sections are applicable to every newspaper printing and publishing operation in this state that publishes, sells, or distributes newspapers, as well as to those manufacturers and suppliers who provide newsprint for sale in Texas.

(b) Definitions. The following words, terms and abbreviations, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Aggregate postconsumer recycled content** - refers to the total amount of postconsumer recovered material by weight contained in total purchases of newsprint for a specified period. It is arrived at by multiplying the percentage of postconsumer recovered fiber in each shipment of newsprint purchased by the percentage of total newsprint purchases that shipment represents and summing the products thus calculated for all shipments received during the specified time period.

(2) **De-inked fiber** - A fiber which has undergone the de-inking process.

(3) **De-inking process** - A process by which most of the ink, filler, coating, and other extraneous (non-cellulose) material is removed from printed or unprinted paper.

(4) **Metric ton** - 1,000 kilograms. To convert pounds to metric tons the number of pounds should be divided by 2,204.6.

(5) **Newspaper** - A publication that is printed on newsprint and published, sold, and distributed in the state, both daily and non-daily, to disseminate current news and information of general interest to the public.

(6) **Newspaper publisher** - An individual or corporate group of newspaper publishers which uses newsprint in a newspaper publishing operation.

(7) **Newsprint** - Paper used for the printing of newspapers.

(8) **Newsprint manufacturer** - A business which makes newsprint.

(9) **Overs** - also known as "overruns," are newspapers printed for sale to distributors or the public which remain unsold. Overs include inserts such as magazines and advertising supplements.

(10) **Postconsumer recovered material** - Includes paper, paperboard, and other fibrous products that have completed their normal cycle of production and use, but excludes all papermaking waste and blank white news, which is diverted for recycling prior to printing. Postconsumer recovered material may also include any de-inked fiber, regardless of the source of such fiber except from sources specifically excluded previously. Overs are included within the definition of postconsumer recovered material.

(11) **Postconsumer recycled content** - That portion of manufactured newsprint that is comprised of postconsumer recovered material, usually expressed as a percentage of the total content.

(12) **Recycled newsprint** - Any newsprint certified by the manufacturer or supplier as containing at least 25% postconsumer recovered material, by fiber weight.

(13) **Virgin newsprint** - Newsprint which contains 100% new materials in its formation.

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§328.101. General Guidelines and Requirements.

(a) Target recycling percentages. In order to bring about a significant state-wide increase in newsprint recycling, newspaper publishers are encouraged to take whatever measures may be necessary to ensure that their publishing businesses meet or exceed the target recycling percentages set forth in paragraph (1) of this subsection. In the event a newspaper publisher chooses to purchase newsprint with less than 25% postconsumer recycled content, the agency will consider legislative intent to be achieved if that publisher meets or exceeds the alternative aggregate recycling content standards set forth in paragraph (2) of this subsection.

(1) Newspaper publishers should obtain and utilize newsprint such that the percentage of "recycled newsprint," as defined in §328.100 of this title (relating to Purpose and Definitions), in the overall total amount of newsprint purchased each year is at least:

- (A) 10% by the end of calendar year 1993;
- (B) 20% by the end of calendar year 1997; and
- (C) 30% by the end of calendar year 2000.

(2) In the alternative, newspaper publishers may obtain and utilize newsprint such that the aggregate postconsumer recycled content, by fiber weight, in the overall total amount of newsprint purchased each year is at least:

- (A) 2.5% by the end of calendar year 1993;
- (B) 12% by the end of calendar year 1997; and

(C) 18% by the end of calendar year 2000.

(b) Certification. Newsprint manufacturers and suppliers shall certify the average percentage, based on annual production, of postconsumer recovered material contained in any newsprint sold and/or delivered to Texas newspaper publishers.

(c) Recordkeeping. Newsprint purchase and delivery records shall be maintained by all newspaper publishers. In addition, mill certification records showing the average percentage of postconsumer recovered material in purchased and/or utilized newsprint should be kept by each publisher. Such records must contain sufficient information to enable the publisher to prepare those reports required under §328.103 of this title (relating to Reports). An official Texas Daily Newspaper Association (TDNA) Newsprint Order Form may be used to maintain and verify required records. Newspaper publishers shall retain required records for three years.

(d) Notice of postconsumer content and labeling.

(1) Newsprint manufacturers or suppliers shall indicate, on invoices provided to newspaper publishers, suppliers, or commercial printers, or through another form of written notice to such consumers, the average postconsumer recycled content of each roll of newsprint which is the subject of such invoice or notice, and the amount of newsprint purchased from such newsprint manufacturer or supplier containing the minimum postconsumer recycled content required to meet the definition of "recycled newsprint" under §328.100 of this title (relating to Purpose and Definitions).

(2) Newsprint which contains less than the minimum percentage of postconsumer recovered material required to qualify it as recycled newsprint may be identified as follows: "this product contains an average of ____% postconsumer recycled fiber, based on annual production" with the percentage indicated.

(e) Comparable price, quality, and availability. Texas newspaper publishers are urged to voluntarily increase utilization of "recycled newsprint" or other newsprint, that has been certified as containing postconsumer recovered material, beyond the target recycling percentages set forth in subsection (a) of this section in those instances where:

(1) availability of such products exist;

(2) the net cost of utilizing such products is comparable to that of utilizing virgin newsprint; and

(3) the quality of such products (considering such factors as brightness, opacity, and cross machine tear strength) is similar to that of virgin newsprint.

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§328.102. Requirements.

The agency shall assure easy access of information among all parties affected by these sections and shall establish a data filing system that will allow all parties to easily monitor the progress of the recycling program set forth in these sections. Specifically, the agency shall:

(1) maintain up-to-date listings of, and data from, municipalities, towns, local organizations, and other generators of recyclable paper and newsprint, concerning both present and planned newsprint recycling and collection activities and the overall availability of such recyclable material within the state;

(2) provide, to recyclers of old newspapers and other recyclable paper materials, acceptability requirements and specifications with respect to materials destined for de-inking plants and recycled paper mills;

(3) maintain a roster of current newspaper publishers, wastepaper dealers, commercial printers, as well as paper and paperboard mills who buy, sell, recover or consume wastepaper in Texas and in other states;

(4) in cooperation with various state agencies and officials, publishers, and other parties, assist in the development of those education strategies and market development programs described in §361.423 of the Health and Safety Code, which are designed to promote newsprint recycling; and

(5) work closely with Texas Daily Newspaper Association, the Texas Press Association, manufacturers of newsprint containing postconsumer recovered material, and citizen groups concerned with recycling, to monitor problems and issues regarding newsprint quality and the availability of "recycled newsprint."

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§328.103. Reports.

(a) Preprinted reports. Newspaper publishers may use standard forms, to be provided by the commission, to submit annual reports required by this section, concerning the publishers' use of recycled newsprint.

(b) Due date. Texas newspaper publishers shall be responsible for returning a completed report to the commission on or before January 31 of each year for the immediately preceding calendar year.

(c) Report content. The report shall contain the following information:

(1) name, mailing address, physical address, and telephone number of the newspaper manufacturer or supplier or corporate media group from which newsprint purchases were made during the preceding calendar year;

(2) the total amount of newsprint purchased during the calendar year (in metric tons);

(3) the total amount of "recycled newsprint," as defined in §328.100 of this title (relating to Purpose and Definitions), purchased during the calendar year (in metric tons);

(4) the percentage, of the total newsprint purchased during the calendar year, which in accordance with §328.100 of this title qualified as "recycled newsprint;"

(5) if the reporting party chooses to comply with the alternative target recycling percentages in §328.101 (relating to General Guidelines and Requirements), the percentage reflecting the aggregate postconsumer recycled content of the total amount of newsprint purchased during the calendar year; and

(6) in the event the publisher fails during the preceding year to meet the voluntary requirements set forth in §328.101 of this title (relating to General Guidelines and Requirements), the publisher shall indicate the following:

(A) whether or not the publisher was able to obtain sufficient quantities of "recycled newsprint," or other newsprint containing certified minimum percentages of postconsumer recovered material, on a timely basis, at roughly the same net cost, and having satisfactory quality;

(B) whether or not the publisher attempted to obtain "recycled newsprint," or other newsprint containing certified minimum percentages of postconsumer recovered material, from every manufacturer or supplier that offered to sell such newsprint to the publisher; and

(C) such publisher's specific efforts to obtain "recycled newsprint," including the name and address of each producer of newsprint that the publisher contacted, as well as the name and telephone number of the contact person representing each of those producers.

(7) Annual reports shall be submitted to the agency address identified on the annual report.

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§328.104. Joint Review.

The agency shall schedule periodic meetings with representatives from the newsprint manufacturing and newspaper publishing industries to evaluate the effectiveness of the requirements set forth in these sections, to compare the newspaper recycling progress in Texas with that in other states, and to consider whether revisions to these sections may be warranted.

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§328.105. Enforcement.

If the agency finds that, on a state-wide basis, voluntary actions alone on the part of newsprint

manufacturers, newsprint suppliers, and newspaper publishers fail to achieve the target recycling percentages set forth in §328.101 of this title (relating to General Guidelines and Requirements), the commission may, after considering all relevant factors, including but not limited to function, availability and cost, adopt mandatory enforcement measures designed to further increase the amount of newsprint recycling in the state and to ensure that the state-wide goals are achieved.

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