

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
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Uniform Rules Subcommittee
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DATE: April 11, 2007

SUBJECT: Requiring Use of Recycled Paper With (at least) 30 Percent Postconsumer
Fiber (amend Cal. Rules of Court, rule 1.6(22)) (Action Required)

Issue Statement

Rule 1.6(22) of the California Rules of Court defines “recycled paper” by reference to a repealed section of the Public Resources Code. Standards for “recycled” paper goods currently are set forth in Public Contract Code sections 12200 et seq. Rule 1.6(22) should be amended to define “recycled” paper by referring to the definition of “recycled printing and writing paper” in section 12209 of the Public Contract Code.

Recommendation

The Civil and Small Claims and Appellate Advisory Committees recommend that the Judicial Council amend rule 1.6(22), effective July 1, 2007, to define “recycled” paper by referring to “recycled printing and writing paper” as defined by section 12209 of the Public Contract Code.

The text of the amended rule is attached at page 4.

Rationale for Recommendation

Rule 1.22(a) of the California Rules of Court provides that “[r]ecycled paper . . . must be used” for original and service copies of all papers, documents, and exhibits filed in California courts or served on other parties. Rule 10.503 provides that “[a]ll courts must use recycled paper for all purposes except for uses for which recycled paper is not practically available.” However the rules define “recycled paper” by reference to section 42202 of the Public Resources Code, which was repealed in 2005. (Cal. Rules of Court, rule 1.6(22) (defining recycled paper by reference to Pub. Resources Code, § 42202).) Current standards for “recycled” paper goods appear in Public Contract Code sections 12200 et seq.

Amending rule 1.6(22) as recommended, to define “recycled” paper by referring to “recycled printing and writing paper” as defined by section 12209 of the Public Contract Code will make the standard for recycled paper more stringent than the definition as originally adopted—a reasonable change for several reasons.

First, although the California Rules of Court initially adopted the “recycled” standard for paper products rather than the previously more stringent standard for printing and writing paper, the same standard now applies to both “recycled paper products” and “recycled printing and [w]riting paper”: both must “consist of at least 30 percent, by fiber weight, postconsumer fiber.” (Pub. Contract Code, § 12209(a) and (b).)¹

Second, California state and federal agencies have for years been purchasing 30 percent postconsumer content recycled printing and writing paper. (Pub. Resources Code, § 42202(c)(3) (effective January 1, 1999, postconsumer material content for printing and writing paper increased from 20 to 30 percent); Exec. Order No. 13101 (Sept. 14, 1998) 63 Fed. Reg. 49643, titled “Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition;” and establishing minimum content standard of 30 percent postconsumer material for copier, printer, writing, and office paper purchases

¹ Under Public Resources Code section 42202 as it was originally enacted (and as was in effect on November 30, 1993, when the Judicial Council amended rule 201 to require use of recycled paper, effective January 1, 1995), “recycled paper product” meant “a paper product with not less than 50 percent by fiber weight consisting of secondary material or postconsumer material and with not less than 10 percent of the fiber weight consisting of postconsumer material,” and there was no distinct content standard for recycled printing and writing paper. (Stats. 1989, ch. 1096, § 2.) When section 42202 was amended in 1994, printing and writing grades of “recycled paper” were defined “[f]or text and cover grades and cotton fiber papers, [as] not less than 50 percent by fiber weight consisting of secondary and postconsumer material with not less than 20 percent of fiber weight consisting of postconsumer material,” and “[f]or other uncoated printing and writing grades, [as] not less than 20 percent by fiber weight consisting of postconsumer material.” (Stats. 1994, ch. 942 (SB 1915), § 16, eff. Sept. 28, 1994.) Section 42202 was also amended at that time to provide that, effective January 1, 1999, the postconsumer material content for “recycled” printing and writing papers “shall be increased to 30 percent of fiber weight.” (*Id.*) Although the postconsumer material content standard for recycled paper products was once less stringent than the standard for recycled printing and writing paper (i.e., 10 versus 20 percent), under Public Contract Code section 12209, “recycled paper products” and “recycled printing and [w]riting paper” must both now “consist of at least 30 percent, by fiber weight, postconsumer fiber.” (Pub. Contract Code, § 12209(a) and (b).)

by federal agencies, or at least 20 percent postconsumer material if 30 percent is not reasonably available.)

Third, recycling technologies have developed to the point that 30 percent postconsumer fiber paper has been found have the same quality and performance as paper with lower (or no) postconsumer content.

Finally, given its already widespread use, 30 percent postconsumer content recycled paper is readily publicly available.

Comments From Interested Parties

This rule proposal was circulated for public comment during the winter cycle of 2007. Seven comments were received: one from a private attorney, and six from court executives and administrators. The private attorney disagreed with the proposal without further comment, and the six court-employed commentators agreed with the proposal without substantive comment.

A chart summarizing the comments is included at pages 5–6.

Alternative Actions Considered

The Judicial Council could repeal entirely the rules pertaining to recycled paper or set a recycled paper standard that is different from the standard provided in the Public Contract Code; however, amending rule 1.6(22) as recommended seems socially responsible, beneficial, and consistent with past policy.

Implementation Requirements and Costs

There should be no significant implementation requirements or costs. As discussed above, California state agencies already use 30 percent postconsumer content recycled paper.

Rule Proposal

Rule 1.6 of the California Rules of Court is amended, effective July 1, 2007, to read:

1 **Rule 1.6. Definitions and use of terms**

2

3 As used in the California Rules of Court, unless the context or subject matter otherwise
4 requires:

5

6 (1)–(21) ***

7

8 (22) “Recycled” as applied to paper means ~~“recycled paper product”~~ “recycled
9 printing and writing paper” as defined by section ~~42202~~ 12209 of the Public
10 ~~Resources~~ Contract Code.

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12 (23) ***

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W07-01
California Rules of Court: Definition of “Recycled”
(amend Cal. Rules of Court, rule 1.6(22))

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Krystina Cifuentez Deputy Court Administrator III Superior Court of Kings County Hanford	A	Y	None.	None required.
2.	Mr. Philip Kilduff Attorney 717 Hyde Street, No. 4 San Francisco	N	N	None.	None required.
3.	Ms. Pam Moraida Program Manager Superior Court of Solano County Fairfield	A	N	None.	None required.
4.	Mike Roddy Executive Officer Superior Court of San Diego County San Diego	A	Y	None.	None required.
5.	Mr. Ben Stough Court Executive Officer Superior Court of Mendocino County Ukiah	A	N	None.	None required.
6.	Ms. Sharol Strickland	A	N	None.	None required.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Court Executive Officer Superior Court of Butte County Oroville				
7.	Ms. Debra Myers Chief of Staff Counsel Superior Court of San Bernadino County	A	Y	This proposal amends the court rules to cite current law and language regarding the definition of recycled paper.	None required.