



## Maryland Green Purchasing Committee Approved Specification – Disposable Food Service Ware

### **HOW TO USE THIS DOCUMENT:**

This document sets the minimum requirements for environmentally preferable food service supplies purchased by the State of Maryland. Vendors are required to follow and, when possible, go beyond these standards in their product offerings to the maximum extent practicable when such products are cost competitive and meet form, function and utility requirements.

For State procurement officers, this document outlines the legislation, statutes, and regulations that mandate State purchasing practices for food service supplies. The document also provides boilerplate language to be included in State procurement contracts associated with food service supplies.

### **PRODUCTS COVERED UNDER THIS SPECIFICATION:**

Bowls	Food Waste Bags
Clamshells	Napkins
Cloth Towels	Paper Bags
Containers	Plates
Cup Lids	Straws
Cups	Towels
Food Coverings	Trays
Food Service Gloves	Utensils
Food Storage Bags	Wraps



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## 1. ENVIRONMENTALLY PREFERABLE PURCHASING: LEGISLATION, STATUTES, AND REGULATIONS

### *For Procurement Officers and Agencies*

#### **Environmentally Preferable Purchasing** (COMAR: [21.11.07.09](#))

“All procurement agencies shall purchase environmentally preferable products and services unless purchasing environmentally preferable products and services would limit or supersede any requirements under any provision of law or result in the purchase of products and services that:

- (1) Do not perform adequately for the intended use;
- (2) Exclude adequate competition; or
- (3) Are not available at a reasonable price in a reasonable period of time.”

#### **Mercury and Products that Contain Mercury** (COMAR: [21.11.07.07](#))

“All procurement agencies shall give a preference under this regulation to procuring products and equipment that are mercury-free. If mercury-free products and equipment that meet the agency's product performance requirements are not commercially available, the procurement agency shall give preference under this regulation to products containing the least amount of mercury necessary to meet performance requirements.”

### *For Contractors, Bidders, and Offerors*

#### **Verifying Environmental Claims** (State Finance and Procurement Article [§14-410](#))

“A bidder or offeror for a procurement contract [with the Department of General Services] shall certify in writing that any claims of environmental attributes made relating to a product or service are consistent with the Federal Trade Commission’s Guidelines for the Use of Environmental Marketing Terms.”

#### **Expanded Polystyrene Food Service Products – Prohibitions** (Environment Article [§9-2203](#))

- (a) “On or after July 1, 2020, a person may not sell or offer for sale in the State an expanded polystyrene food service product.”
- (b) “On or after July 1, 2020, a food service business or school may not sell or provide food or beverages in an expanded polystyrene food service product.”

#### **Limitations and Prohibitions on Heavy Metals in Packaging** (Environment Article [§9-§1902\(a\)-\(d\)](#))

“Except as provided in § 9-1903 and § 9-1904 of this subtitle, on or after July 1, 1993, a manufacturer or distributor may not sell or offer for sale or for promotional purposes any package or packaging component or any product in a package or packaging component to which any of the following was intentionally added during manufacture or distribution:

- (1) Lead;
- (2) Cadmium;
- (3) Mercury; or
- (4) Hexavalent chromium.

#### **Standards for Plastic Ware** (Environment Article §9-2102)



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- (a) “Except as provided in subsection (c) of this section, on or after October 1, 2018, a person may not sell in the State a plastic product that is labeled as biodegradable, degradable, decomposable, or with any other term to imply that the product will break down, fragment, biodegrade, or decompose in a landfill or any other environment.
- (b) On or after October 1, 2018, a person may not sell in the State a plastic product that is labeled as compostable or home compostable unless the plastic product meets the following standards:
- (1) For a plastic product labeled as compostable, the plastic product shall meet:
    - (i) 1. The ASTM D6400 standard specification; or 2. The ASTM D6868 standard specification; and
    - (ii) Any applicable labeling guidelines in the federal Guides for the Use of Environmental Marketing Claims.
  - (2) For a plastic product labeled as home compostable, the plastic product shall meet:
    - (i) The OK Compost Home certification standard adopted by Vincotte; and
    - (ii) Any applicable labeling guidelines in the federal Guides for the Use of Environmental Marketing Claims.
- (c) On or after October 1, 2018, a person may not sell in the State a film plastic product labeled as soil degradable ag mulch film or biodegradable mulch film unless the product:
- (1) (i) Meets the OK Biodegradable Soil certification standard adopted by Vincotte; or
  - (ii) At ambient temperatures and in soil, shows at least 90% biodegradation absolute or relative to microcrystalline cellulose in less than 2 years’ - 963 - time, tested according to the ISO 17556 standard test method or ASTM D5988 standard test method; and
  - (2) Fulfills the plant growth and regulated metals requirements under section 6.4 of the ASTM D6400 standard specification.”

**Labeling Standards for Compostable Plastic Bags (Environment Article §9-2103)**

- (a) “Subject to § 9–2102(b) of this subtitle and subsection (b) of this section, on and after October 1, 2018, a person that distributes or sells a compostable plastic bag intended for sale or distribution by a retailer in the State shall ensure that the compostable plastic bag is:
- (1) Labeled in a manner that is readily and easily identifiable from other plastic bags;
  - (2) Labeled in a manner that is consistent with the federal Guides for the Use of Environmental Marketing Claims;
  - (3) Labeled with a certification logo indicating the bag meets the ASTM D6400 standard specification; and
  - (4) (i) A uniform color of green and labeled with the word “COMPOSTABLE” in at least a 1 inch font on one side of the bag;
  - (ii) Labeled in green writing with the word “COMPOSTABLE” in at least a 1 inch font on both sides of the bag; or
  - (iii) Labeled with the word “COMPOSTABLE” in at least a one–half inch font on both sides of the

bag within a green color band that:



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1. Contrasts with the compostable bag's background color; and
  2. Is at least 1 inch in height.
- (b) If a compostable plastic bag is smaller than 14 inches by 14 inches, the compostable bag may be labeled in a manner that is in proportion to the size of the bag.
- (c) A compostable plastic bag sold or distributed in the State may not be labeled as recyclable.
- (d) A provision of this section has effect only to the extent that the provision does not conflict with the federal Guides for the Use of Environmental Marketing Claims.”

### **Labeling Standards for Compostable Food Service Ware (Environment Article §9-2104)**

- (a) Subject to § 9–2102(b) of this subtitle, on and after October 1, 2018, a person that distributes or sells a compostable food or beverage product intended for sale or distribution by a retailer in the State shall ensure that the compostable food or beverage product is labeled:
- (1) In a manner that is readily and easily identifiable from other food or beverage products;
  - (2) In a manner that is consistent with the federal Guides for the Use of Environmental Marketing Claims; and
  - (3) (i) With a certification logo indicating the compostable food or beverage product meets the ASTM D6400 standard specification or ASTM D6868 standard specification; or  
(ii) As compostable.
- b. Subsection (a) of this section has effect only to the extent that the provision does not conflict with the federal Guides for the Use of Environmental Marketing Claims.

## **2. PROHIBITED PRODUCTS**

Pursuant to § 9-2203(B) of the Environment Article of the Annotated Code of Maryland, the sale or provision of expanded polystyrene food service products by a food service business or school is banned in the State of Maryland.

Pursuant to § 9-1902 of the Environment Article of the Annotated Code of Maryland, packages or packaging components must not contain any intentionally added (whether during manufacture or distribution) lead, cadmium, mercury, or hexavalent chromium in excess of 100 parts per million by weight or 0.01%.

Pursuant to § 9-1902(d) of the Environment Article of the Annotated Code of Maryland, food or food packaging component with intentionally added PFAS is prohibited.

## **3. ENVIRONMENTALLY PREFERABLE PRODUCT RECOMMENDATIONS**



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For a product to be classified as an environmentally preferable product by the State of Maryland, it must:

- Fall within one of the five categories listed in Section 1: Material Composition and comply with the related requirements.

AND

- If applicable, comply with the requirements listed in Section II: Chemicals of Concern

### I. Material Composition

#### a. Reusable

*All food service ware, including plates, bowls, cups, trays, glasses, straws, stirrers, and utensils, must meet the following criteria in order to be considered an environmentally preferable reusable product:*

- Be manufactured of durable materials;
- Be specifically designed and manufactured to be washed and sanitized and intended to be used repeatedly at least 1000 times; and
- Be safe for commercial washing and sanitizing according to Maryland Department of Health regulations (COMAR 10.15.03.16).

#### b. Compostable

*Food service supplies, except paper napkins and paper towels, must meet the following criteria in order to be considered an environmentally preferable compostable product:*

- Be certified by the Biodegradable Products Institute (BPI), or equivalent\*, for commercial compostability.

\*BPI is the primary commercial compostability certifier in the United States.

Other equivalent international certifiers include Vinçotte OK Compost and DIN CERTCO.

**OR**

- Appear on the Compost Manufacturers Alliance list or are certified compostable under Canada's Bureau de Normalisation du Québec or appear on Cedar Grove's accepted Items list and have no more than 100 parts per million fluorine

#### c. Recycled Content

*Food service supplies must meet the following minimum requirements in order to be considered an environmentally preferable recycled-content product:*

- Fiber-based products (e.g. paper, sugarcane, wheat straw etc.), excluding paper towels:
  - Must contain minimum 20% post-consumer recycled content or 100% total recycled content
- Plastic products:



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- Must contain minimum 20% post-consumer recycled content or 100% total recycled content
- Aluminum Foil must:
  - Contain 100% total recycled content
- d. Polyvinyl Chloride (PVC) Free**
  - Food Service Ware Gloves must be free of polyvinyl chloride (PVC).
- e. Contain Sustainably Harvested Content and/or Other Environmental Attributes**

*Food service supplies must meet the following criteria for sustainably harvested content or possess one of the ecolabel certifications listed below in order to be considered an environmentally preferable product:*

  - Paper, wood or agricultural fiber certified by the Forest Stewardship Council (FSC) as sustainably harvested;
  - Paper or agricultural fiber products manufactured entirely with chlorine-free processing, meaning that no chlorine or chlorine compounds were used in the manufacture of the products; or
  - Paper napkins and paper towels that are Green Seal or UL ECOLOGO certified.

## II. Chemicals of Concern

*In addition to meeting Maryland’s Toxics in Packaging Law cited above, food service supplies, that fall within one of the categories listed below, must meet the following criteria in order to be considered an environmentally preferable product:*

- a) Food service containers and wrappers:
  - Must not contain any intentionally added perfluorinated chemicals, formaldehyde, bisphenols (e.g. BPA) and phthalates.

## 4. ENVIRONMENTALLY PREFERABLE PURCHASING LANGUAGE

### A. On Environmentally Preferable Purchasing:

**The State of Maryland is committed to purchasing environmentally preferable products and services (EPPs).** Maryland’s State Finance & Procurement Article §14-410 defines environmentally preferable purchasing as “the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose.”

Accordingly, Bidders/Offerors are strongly encouraged to offer EPPs to fulfill this contract, to the greatest extent practicable.



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- B. On Maryland’s Green Purchasing Reporting Requirements: The State of Maryland requires, at a minimum, from the Contractor annual sales data over the life of this contract; the State also reserves the right to request quarterly sales data over the life of this contract.**

The report shall include at a minimum, details about the third-party sustainability certifications and other environmental attributes of products and services sold on this price agreement per the contract specifications.

To facilitate consistent reporting on this contract, the Contractor will be provided with a VENDOR GREEN SALES REPORT template from the Green Purchasing Committee (GPC), the Office of State Procurement (OSP) or the Department of General Services (DGS).

- C. On Environmental Claims: All environmental benefit claims made by the Contractor concerning products or services offered on this contract must be consistent with the Federal Trade Commission’s Guidelines for the Use of Environmental Marketing Claims.**