

State of Rhode Island and Providence Plantations
Department of Environmental Management

**NOTICE OF THE PUBLICATION OF A PROPOSED
DIRECT FINAL RULE**

Rules and Regulations-Recycling and Litter Control Grants (ERLID # 829)

Pursuant to the provisions of Chapters 2-10-3.1, 42-17.1, 42-17.2 and 42-17.6 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws of 1956, as amended, and specifically Section 42-35-2.11 of the amended Administrative Procedures Act, the Director of the Department of Environmental Management (the "Department" or "DEM") hereby proposes to file a Direct Final Rule pursuant to Section 42-35-2.11 of the General Laws of 1956, as amended. The Director believes that this proposed action is noncontroversial and anticipates that no objections will be received to the proposed repeal of the *Rules and Regulations-Recycling and Litter Control Grants*. The subject regulations are proposed to be repealed because they were designed to establish the process for award of grants from the Ocean State Cleanup and Recycling Program (OSCAR). However, the OSCAR program was discontinued in the late 1990s, at which time all such recycling programs were moved to the Rhode Island Resource Recovery Corporation.

Pursuant to the requirements of Section 42-35-2.6 and 42-35-2.7 of the Rhode Island General Laws, DEM has made the following determinations: DEM has considered alternative approaches to the proposed dismissal and has determined that there is no alternative approach among the alternatives considered that would be as effective and less burdensome.

A copy of the subject regulations will be available for examination from August 11, 2017 through September 10, 2017 by mail or at the Office of Customer and Technical Assistance at 235 Promenade Street, Providence, RI 02908, weekdays from 8:30 - 4:00 PM or by calling the Office at (401) 222-6800. Electronic copies of the proposed regulations to be repealed will also be available on the DEM website.

DEM encourages the submission of written objections to the proposed repeal of the *Rules and Regulations-Recycling and Litter Control Grants* (ERLID # 829), via a Direct Final Rule pursuant to Section 42-35-2.11 of the General Laws of 1956, as amended. If no objection is received on or before September 10, 2017, DEM will file the repeal without opportunity for public comment. All written objections should be sent to the Department at the Office of Waste Management located at 235 Promenade Street, Providence, RI 02908 or via e-mail to leo.hellested@dem.ri.gov and must be received no later than 11:59 PM on **September 10, 2017**.

Janet L. Coit
Director, Department of Environmental Management

Posted

RULES AND REGULATIONS

RECYCLING AND LITTER CONTROL GRANTS

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF ENVIRONMENTAL COORDINATION

OCEAN STATE CLEANUP AND RECYCLING PROGRAM

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RULES AND REGULATIONS
R. I. DEM RECYCLING & LITTER CONTROL GRANTS

Part I. Administrative and Organizational Matters: Definitions

1.00 FINDINGS AND POLICY

- 1.01 Authority: Under the authority of the 1956 General Laws of Rhode Island, Chapter 15, particularly sections 37-15-13 and 37-15-14 (1984 Reenactment) the following Rules and Regulations are promulgated to administer said chapter.
- 1.02 Legislative Intent and Policy: The declarations of intent and public policy set forth by the Legislature in Sections 37-15-1 and 37-15-2 (1984 Reenactment) are hereby adopted as the administrative findings and policy upon which these regulations are based.
- 1.03 Administrative Findings: The following administrative findings are also made as a basis for these regulations:
- (a) Recycling
 - (1) That the amount of solid waste presently landfilled in Rhode Island, the annual decrease in available landfill space and the rapid depletion of energy and natural resources all point to the need to develop a balanced solid waste management system for the State. Such a system must include well organized and operated recycling programs as well as environmentally safe landfills sites.
 - (2) Recovery of recyclables from solid waste is an important factor in resolving the economic and environmental problems associated with Rhode Island's limited landfill space. Specifically, an increased recycling rate in Rhode Island will result in the following benefits:

- (i) reduction in the amount of land used for landfilling and consequent savings in terms of dollars expended for landfill disposal.
 - (ii) reduction in the solid waste stream and subsequent reduction in dollars required to be expended for waste facilities.
- (3) There is a need to encourage development of recycling program by providing financial assistance to both public and private sectors.
- (b) Litter
- (1) The accumulation and proliferation of litter frustrates efforts by citizens and the government to maintain a clean and beautiful state:
 - (2) A litter-free environment makes Rhode Island a more attractive location for business and enhances the tourist industry:
 - (3) Litter is not only an eyesore but can also represent a health and safety hazard:
 - (4) Prevention of litter could save state dollars through lessening the need for litter pickup:
 - (5) Whenever possible, materials picked up in a litter cleanup program should be recycled or reused rather than disposed of in a landfill.

1.04

Function: The function of the rules and regulations is to provide for a grants program to be administered by the Rhode Island Department of Environmental Management (DEM), (to be known as the Ocean State Cleanup and Recycling Program). The objective of the grant program is to increase the amount of materials recycled in Rhode Island; and to prevent, control and to clean up litter in the state. These rules and regulations also provide for grants to be awarded for purchase of litter receptacles.

2.00 ORGANIZATION AND METHOD OF OPERATION

2.01 Organization: Section 37-15-13 of the Litter Control and Recycling Act authorizes the Department of Environmental Management to award grants to eligible parties for activities specified in Section 37-15-9 and 37-15-13.

2.02 Methods of Operation and Powers:

- (a) The Rhode Island Department of Environmental Management shall adopt, amend and implement such rules and regulations with respect to the grants program necessary to further the accomplishment of the purposes of Chapter 37-15-1.
- (b) The Rhode Island Department of Environmental Management shall issue grant guidelines to specify types of grant assistance available and terms of eligibility.

2.03 The Office of Environmental Coordination, Ocean State Cleanup and Recycling Program.

- (a) A unit of the Department of Environmental Management, designated the Ocean State Cleanup and Recycling Program, Office of Environmental Coordination, shall perform all duties related to the administration of these rules and regulations. Such duties include the development of grant guidelines and grant categories; the receipt, review and ranking of grant requests and review and evaluation of programs subsequently implemented with the grants.

Section 3.00 Definitions

As used in these regulations, the terms below shall be defined as follows:

“Department” means the Department of Environmental Management.

“Director” means the Director of the Department of Environmental Management.

“Eligible parties” means those groups who are qualified to apply for a grant from the Department including the following parties as defined below:

(a) “Municipality” meaning any of the thirty-nine (39) cities and towns in the state of Rhode Island.

(b) “Non profit organization” shall mean an entity composed of five (5) or more members, which has designated an officer or officers who have full authority to act on its behalf and which entity may not distribute any income or profit to its members, directors or officers.

(c) “Recycling business” meaning a for-profit business which collects, processes, sells, purchases or converts recyclable materials.

As specified in the legislation, only municipalities will be eligible for grants to purchase litter receptacles (Section 37-15-9). Recycling businesses will be eligible only to apply for specific recycling business grants.

“Litter” means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature thrown, dropped, discarded, placed or deposited by a person on public property, on private property not owned by such person, or in or on waters of the state, unless the person has:

- (a) been directed to do so by a public official as part of a litter collection drive
- (b) discarded, thrown, dropped, placed or discarded the material in a litter receptacle in a manner that prevented the material from being carried away by the elements; or
- (c) been issued a license or permit covering the material pursuant to chapter 23-18-9 or chapter 23-19.1 of the general laws.

“Litter Receptacle” means a container with a capacity of not less than 10 gallons, placed as a depository for litter which bears the state’s anti-litter symbol or other anti-litter symbol. Large containers commonly known as “dumpsters” or “green boxes” and other similar large garbage containers which are designed and intended for the deposit of litter are not included within this definition.

“Program” means the Ocean State Cleanup and Recycling Program, Rhode Island Department of Environmental Management.

“Recycling” means the reuse of recovered resources in manufacturing, agriculture, or other processes and shall also include the process of collecting, sorting, cleansing, treating and reconstituting waste or other discarded material for the purpose of recovering and reusing the materials.

Section 4.00 LIMITATIONS AND EXCLUSIONS

No grant funds be used to replace or support any existing funding for litter control and recycling activities.

Section 5.00 GRANT AGREEMENT

Those awarded grants shall enter into a grant (subsidy) agreement with the R.I. Department of Environmental, Management prior to the receipt and expenditure of grant funds for the approved recycling or litter control activities. In executing said agreement, the grant recipient shall agree at a minimum to the following conditions.

- (a) To use the grant funds only for specifically approved activities and not to replace any pre-existing funding for such activities or purposes.
- (b) To submit required activity performance and financial status reports.
- (c) To establish a separate account for recycling or litter control grant funds and an accounting procedure in conformance with State audit procedures and guidelines.
- (d) To document all cash donations received by date, amount and by name and address of donor.
- (e) To comply with State equal employment opportunity and hiring practices.
- (f) To administer and implement the program in compliance with Title 37, Chapter 15, these regulations, the grant guidelines as contained in the appropriate grant handbook and any special conditions set forth in the grant agreement.

6.00 Grants Program

The Department shall allocate and distribute funds to eligible parties by way of grant for the purposes described in Title 37, Chapter 15, Section 13. To administer the grants program, the Department shall develop grant guidelines for the purpose of:

- (a) establishing categories of grants assistance
- (b) defining the requirements for eligibility for each type of grant
- (c) establishing allowable uses of each type of grant
- (d) establishing award criteria for each grant category
- (e) specifying the application procedures for each type of grant

7.00 Litter Receptacle Grants

- (a) Cities, towns and counties are eligible for grants to procure litter receptacles. The grant shall be on a matching basis wherein the local government involved shall be required to pay 50% of the total costs of procurement.
- (b) The amount of the grant shall be determined on a case by case basis after considering need, available department funds and other relevant factors.
- (c) Responsibility for maintaining and emptying the litter receptacles shall remain with the local government.
- (d) There shall be a pilot program, during the initial funding cycle, which shall consist of litter receptacle grants to not more than five (5) recipients. Applicants for said grants shall set forth the methods proposed to be utilized to meet the requirements and purposes set forth in Title 37, chapter 15, Section 9. The experience acquired from said pilot program will be the basis upon which the Department will propose regulations for a permanent litter receptacle grants program.

8.0 Severability: If any section, paragraph, phrase, sentence or clause of these rules and regulations is declared invalid or unconstitutional for any reason, the remainder of the rules shall not be affected thereby.

9:00 Effective Date: These rules and regulations shall become effective twenty days following their filing with the office of the Secretary of State.

REPEAL