

250-RICR-140-20-1

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 140 - WASTE & MATERIALS MANAGEMENT

SUBCHAPTER 20 - RECYCLING & SPECIAL WASTE

PART 1 - Rules and Regulations for Reduction and Recycling of Commercial and Non-Municipal Residential Solid Waste

1.1 Purpose

- A. These regulations establish the requirements for the reduction and recycling of commercial and non-municipal residential solid waste. The program is to be administered by the Department of Environmental Management in cooperation with the Solid Waste Management Corporation.
- B. The purposes of these regulations are:
 - 1. To define the recyclable components of commercial and non-municipal residential solid waste,
 - 2. To set schedules for recycling commercial and non-municipal residential solid waste, for submitting source reduction and recycling plans and for reporting source reduction and recycling activities, and
 - 3. To establish enforcement procedures for these regulations.

1.2 Authority

These Rules and Regulations are promulgated pursuant to the requirements and provisions of R.I. Gen. Laws Chapter 42-17.1, "Department of Environmental Management", R.I. Gen. Laws Chapter 42-17.6, "Administrative Penalties for Environmental Violations", and R.I. Gen. Laws §§ 23-18.8-2, 23-18.9-1, 23-18.9-7, 23-19-3, 23-19-5, R.I. Gen. Laws Chapters 37-15, 42-20.16 in accordance with the provisions of R.I. Gen. Laws Chapter 42-35, "Administrative Procedures Act".

1.3 Findings and Policy

- A. The findings and policy enumerated by the legislature in R.I. Gen. Laws Chapters 23-18.8 and 23-19, as amended, are hereby adopted as the administrative findings and policy upon which these Rules and Regulations are based.
- B. These findings recognize and declare that it is the policy of the State that:

1. The central landfill is a public resource of limited and finite capacity which the state, as guardian and trustee for its people, has the right and the obligation to preserve for the use of its people;
2. Solid waste management problems are statewide in scope and necessitate state action through technical assistance and leadership in the application of new and improved methods and processes to reduce the amount of solid waste that must be disposed of, and to promote environmentally acceptable and economically sound solid waste management;
3. Any environmentally and economically sound solid waste management system must incorporate recycling;
4. The failure or inability to economically recover and recycle materials and energy resources from solid waste results in the unnecessary waste and depletion of natural resources;
5. All solid waste capable of being recycled should be recycled;
6. A sound recycling program will be best achieved by cooperation of the Rhode Island Solid Waste Management Corporation, the Department of Administration, the Department of Environmental Management, and the cities and towns of the state of Rhode Island;
7. The definition of recyclable materials should be the responsibility of the Department of Environmental Management and should be changed from time to time depending upon new technologies, economic conditions, waste stream characteristics, environmental effects, or other factors;
8. Upon full implementation of the recycling program, all solid waste, from both cities and towns and commercial establishments, will be separated into recyclable and nonrecyclable components.

1.4 Application

The terms and provisions of these regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

1.5 Definitions

- A. For the purposes of these regulations, except as provided below, the general definitions and abbreviations set forth in R.I. Gen. Laws §§ 23-18.9-7 and 23-19-5 shall apply to these regulations.
 1. "Agency" means any commission, board, Department, public or quasi public corporation (including, but not limited to, the Rhode Island Port

Authority, Rhode Island Public Transit Authority, Rhode Island Public Buildings Authority, Rhode Island Public Communications Authority, Rhode Island Higher Education Authority, and Rhode Island Bridge and Turnpike Authority) either public or private and including state, county, and municipal government.

2. "Commercial solid waste" means all solid waste except: hazardous waste, as defined in R.I. Gen. Laws Chapter 23-19.1; municipal solid waste and non-municipal residential waste, as defined in these regulations.
3. "Corporation" means the Rhode Island Solid Waste Management Corporation.
4. "Corrugated cardboard" means corrugated containers, substantially clean and dry, empty and free of wood, plastic, polystyrene and other packing materials. Wax coated and /or wire reinforced corrugated is excluded from this definition.
5. "Department" means the Rhode Island Department of Environmental Management.
6. "Disposal" means the abandonment, discard or final disposition of waste.
7. "Materials Recovery Facility" or "MRF" or "Intermediate Processing Facility" or "IPF" means a facility consisting of structures, machinery, or devices utilized to sort, bale, or otherwise process source segregated recyclables prior to conveyance to market outlets.
8. "Multi-unit housing" means any housing which the governing body of that municipality has designated as a multi-unit dwelling, and which generates non-municipal residential solid waste.
9. "Municipal solid waste" means that solid waste generated by the residents of a municipality in the course of their daily living, the disposal of which the governing body of the municipality has undertaken in the discharge of its duties to protect the health of the municipality. Municipal solid waste does not include solid waste generated by residents of a municipality in the course of their employment or that generated by any manufacturing or commercial enterprise.
10. "Non-municipal residential solid waste" means solid waste generated by the residents of a municipality in the course of their daily living for which the governing body of that municipality does not accept responsibility for disposal. Non-municipal residential solid waste does not include solid waste generated by residents of a municipality in the course of their employment or that generated by any manufacturing or commercial enterprise.

11. "Office paper" means a paper suitable for pen and ink, pencil, typewriter, or printing, which have a similar fiber and filler content, and which are free of treated, coated, padded and heavily printed paper, carbon paper and non-paper materials.
12. "Person" means any individual, firm, institution, school, government or quasi-government agency, partnership, association or corporation; public or private; organized or existing under the laws of the state or other states including federal corporations.
13. "Segregated" means keeping recyclables separate from commercial solid waste, beginning at the point of generation, through the use of containers, dumpsters, bags, or other receptacles which provide a barrier between recyclables and solid waste and maintain marketability before delivery to a solid waste management facility, intermediate processing facility, or a materials recovery facility.
14. "Solid waste management facility" means any plant, structure, equipment, real and personal property, except mobile equipment or incinerators with a capacity of less than 1,000 pounds per hour, owned or operated for the purpose of processing, treating, or disposing of solid waste, but not segregated solid waste.
15. "Telephone directory" means a soft-cover listing of telephone numbers and addresses by telephone listing territories commonly listed alphabetically or by occupation and distributed to households and businesses in behalf of telecommunications utilities or private advertisers.
16. "Used lubricating oil" means a petroleum based oil which, after sale to a consumer, through use, storage or handling has become unsuitable for its original purpose.
17. "White goods" means large, predominantly metal appliances such as, but not limited to, refrigerators, ovens, and laundry washing and drying machines.
18. "Wood waste" means lumber, pallets, crates, plywood, and particle board, substantially free of contaminants. Contaminants include: lead paint, banding, bolts over 1/4 inch diameter, shingles, pipe, formica, plastics, and preservatives. Construction or demolition debris that cannot be readily separated is excluded from this definition.

1.6 Recyclable Materials

- A. For the purpose of defining those components which must be segregated from commercial solid waste, the following materials are defined as recyclable:
 1. Aluminum;

2. Automobiles;
3. Coated unbleached kraft beverage carriers;
4. Corrugated cardboard;
5. Glass food and beverage containers;
6. Laser toner cartridges;
7. Leaves and yard waste;
8. Newspaper;
9. High density polyethylene (HDPE) plastic milk and water containers;
10. Office paper;
11. Polyethylene terephthalate (PET) plastic soft drink containers;
12. Steel, and tin coated steel cans;
13. Telephone directories;
14. Used lubricating oil;
15. Vehicle batteries;
16. White goods;
17. Wood waste.

B. For the purpose of defining those components which must be segregated from non-municipal residential solid waste, the following materials are defined as recyclable:

1. Aluminum;
2. Glass food and beverage containers;
3. Leaves and yard wastes;
4. Newspaper;
5. High density polyethylene (HDPE) plastic milk and water containers;
6. Polyethylene terephthalate (PET) plastic soft drink containers;
7. Steel, and tin coated steel cans;

8. Telephone directories;
 9. White goods.
- C. These materials must be segregated and kept in a condition to meet minimum market standards. The materials to be included may change from time to time depending upon new technologies, economic conditions, characteristics of the waste stream, environmental effects or other factors.
- D. Any person has the right to petition the Department to remove a material from the list of the recyclables to be segregated from commercial solid waste. Such a petition shall demonstrate that:
1. The capacity does not exist in Rhode Island to accept that material for recycling even when accompanied by a payment of one-quarter of the commercial tip fee, and
 2. There is a low probability of market recovery in the long term, and
 3. Removing the material from the list of recyclables will not result in an adverse environmental impact.

1.7 Segregation of Recyclables from Commercial Solid Waste

- A. The following regulations in this rule shall apply to all commercial and non-municipal residential solid waste generated in Rhode Island.
1. Any person who generates commercial solid waste or accepts responsibility for collecting, storing, or disposing of their tenant's waste, shall segregate their solid waste.
 2. Subsequent to the point of generation, no person shall combine segregated recyclables with solid waste in a manner that renders the material not marketable.

1.8 Planning, Implementation, and Reporting Requirements for Business

- A. Any person who generates commercial solid waste and employs 50 or more employees, as listed in Department of Employment and Training records; or any property owner or property manager who takes responsibility for collecting, or storing, or disposing of the commercial or non-municipal residential solid waste generated by their tenants employing 50 or more employees, combined, as listed in Department of Employment and Training records, shall:
1. Prepare and submit a source reduction and recycling plan consistent with Department requirements to the Department within 60 days of registering

with the Rhode Island Department of Employment and Training. These plans shall include a:

- a. Waste audit,
 - b. Description of the process by which recyclable materials are to be segregated, and
 - c. Plan for the reduction of solid waste and recyclables generated; and
2. Be in compliance with an approved source reduction and recycling plan no later than 60 days after notice of plan approval is issued by the Department, unless the Department shall specify a later time for compliance; and
 3. By March 1 of each year, submit a report of recycling activity, covering the previous calendar year, to the Department on the forms provided by the Department.
- B. Any person who generates commercial solid waste, with fewer than 50 employees, as listed in Department of Employment and Training records; or any property owner or property manager who takes responsibility for collecting, or storing, or disposing of the commercial or non-municipal residential solid waste generated by their tenants employing fewer than 50 employees, combined, shall not be required to submit a source reduction and recycling plan or an annual report, but shall be required to source separate and recycle the recyclable materials listed in § 1.6(B) of this Part.

1.9 Planning, Implementation, and Reporting Requirements for Government Agencies

- A. All government agencies who generate commercial solid waste shall submit a source reduction and recycling plan consistent with Department requirements to the Department within 60 days of notification by the Department. These plans shall include a:
1. Waste audit,
 2. Description of the process by which recyclable materials are to be segregated from waste, and
 3. Plan for the reduction of solid waste and recyclables generated.
- B. Any government agency who generates commercial solid waste must be in compliance with an approved source reduction and recycling plan no later than 60 days after notice of plan approval is issued by the Department, unless the Department shall specify a later time for compliance.

- C. By March 1 of each year, any government agency who generates commercial solid waste must submit a report of recycling activity, covering the previous calendar year, to the Department on the forms provided by the Department. The Department may choose to receive data from government agencies by other means.

1.10 Planning and Implementation Requirements for Multi-Family Generators of Non-Municipal Residential Solid Waste

- A. Owners of multi-unit housing which generates non-municipal residential solid waste shall submit a source reduction and recycling plan consistent with Department requirements to the Department no later than 60 days after the date on which recycling of municipal solid waste is scheduled by the Department to begin in the municipality in which the housing is located. These plans shall include a:
 - 1. Waste audit,
 - 2. Description of the process by which recyclable materials are to be segregated from waste, and
 - 3. Plan for the reduction of total waste generated.
- B. Owners of multi-unit housing shall submit a source reduction and recycling plan consistent with Department requirements no later than 60 days after receiving an occupancy permit from a municipality currently recycling municipal solid waste.
- C. Plans prepared under this subsection for multi-unit housing shall be submitted to the Department and to the recycling coordinator in the city or town in which the multi-unit housing is located.
- D. A generator of non-municipal residential solid waste must be in compliance with an approved source reduction and recycling plan no later than 60 days after notice of plan approval is issued by the Department, unless the Department shall specify a later time for compliance.
- E. The owner of multi-unit housing in which non-municipal residential solid waste is generated may petition the Department for an extension of the compliance dates established in this section. Such a petition should demonstrate an inability to comply with these regulations in a timely fashion because of conflicts with local zoning or unusual difficulties in providing for separation and storage facilities.
- F. It is the responsibility of the owner of multi-unit housing in which non-municipal residential solid waste is generated to ensure that recyclables are segregated.
- G. The Department will notify owners of multi-unit housing in writing within 60 days from the date that a completed plan is received that a source reduction and

recycling plan is approved or will specify revisions necessary to bring a plan into compliance with Department requirements.

1.11 Solid Waste Management Facilities, Intermediate Processing Facilities, and Materials Recovery Facilities

- A. An operator of a solid waste management facility; an intermediate processing facility; or materials recovery facility; shall report to the Department, by March 31 of each year, the total amounts of each material segregated for recycling in the preceding year, and the markets for these materials, on forms provided by the Department. The Department shall keep market information confidential in accordance with R.I. Gen. Laws § 38-2-2(d)(2).
- B. No licensed solid waste management facility shall accept, for disposal, commercial solid waste containing greater than 20% recyclables by weight.
- C. All licensed solid waste management facilities shall submit a plan for processing recyclables from commercial and non-municipal residential solid waste received at the facility to the Department no later than 60 days after obtaining a solid waste management facility license. No later than 60 days after notice of Department approval of processing plan, the facility must be in compliance with the plan.
- D. All licensed solid waste management facilities shall submit an updated plan for processing recyclables from commercial and non-municipal residential solid waste to the Department a minimum of 60 days prior to implementing said revised plan.

1.12 Variances

- A. Any person may request a variance from the provisions of this Part. Such a request for a variance shall be in writing, on forms provided by the Department, signed by the company president, and include a comprehensive waste audit.
- B. The Director, through the Bureau of Strategic Planning and Policy, shall evaluate each request for a variance. Such variance may be granted provided that the Director finds that such variance will not be contrary to the purposes and policy expressed in §§ 1.1 and 1.3 of this Part and that alternative methods proposed by the person requesting the variance, fulfill the purposes of the rule from which a variance is requested. The Director may require a public hearing prior to approving any variance where substantial questions exist as to the environmental or public health impacts of such variance.
- C. In evaluating a request for variance, the Director, or designee may:
 - 1. Enter or inspect any place the Director has reason to believe is associated with the generation, segregation, storage, or disposal of solid waste.

2. Inspect and copy any records which the Director has reason to believe is associated with the generation, segregation, storage, or disposal of solid waste.

1.13 Enforcement

Any person that fails to meet the requirements of these regulations will be subject to administrative penalties as authorized by R.I. Gen. Laws Chapter 42-17.6.

1.14 Severability

If any provision of these Rules and Regulations or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of the Rules and Regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of these Rules and Regulations.

1.15 Superseded Rules and Regulations

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of reduction and recycling of commercial and non-municipal residential solid waste shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

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COMMERCIAL AND NON-MUNICIPAL RESIDENTIAL SOLID WASTE (250-RICR-140-
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