250-RICR-140-20-5

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 140 - WASTE & MATERIALS MANAGEMENT

SUBCHAPTER 20 - RECYCLING & SPECIAL WASTE

PART 5 - Rules and Regulations for the Plastic Waste Reduction Act

5.1 Purpose

A. These regulations establish the requirements for the Plastic Waste Reduction Act. This program is to be administered by the Rhode Island Department of Environmental Management in cooperation with the thirty-nine (39) municipalities within the State of Rhode Island.

B. This Chapter is a matter of statewide interest and concern and is applicable uniformly throughout the state. Accordingly, this Part occupies the whole field of regulation of reusable bags, single-use bags, and recyclable paper bags, as defined in this part, provided by a retail sales establishment, as defined in R.I. Gen. Laws § 23-19.18-2, and shall supersede any and all state and local laws, regulations, and ordinances in this field.

C. The purpose of these regulations is to provide clarity on the definitions, prohibitions, enforcement, penalties, uniformity, variances, and superseded rules and regulations in the Plastic Waste Reduction Act.

5.2 Authority

These rules and regulations are promulgated pursuant to the requirements and provisions of R.I. Gen. Laws Chapter 23-19.18.

5.3 Definitions

A. For the purposes of these regulations, the definitions as defined in R.I. Gen. Laws § 23-19.18-2 shall apply to these regulations, and the following definitions:

B. “Reusable bag” means a bag that satisfies all the following conditions:

1. Handles that are stitched.

2. Designed and manufactured for one hundred twenty-five (125) or more reuses.

3. Made primarily of washable cloth, other durable woven or nonwoven fabric, polyester, polypropylene, or other durable plastic with a minimum thickness of four (4.0) mils.

C. "Violation" means the distribution by retail establishment of bags that are prohibited as defined in R.I. Gen. Laws § 23-19.18-3.

5.4 Prohibitions on Single-use Plastic Bag Distribution

For the purposes of these regulations, the prohibitions set forth in R.I. Gen. Laws § 23-19.18-3 shall apply to these regulations.

5.5 Enforcement and Penalty

Any retail sales establishment that fails to meet the requirements of these regulations will be subject to administrative penalties as set forth in R.I. Gen. Laws § 23-19.18-4. All penalties listed may be assessed on a per-day basis counted from the initial day of noncompliance until compliance is achieved.

5.6 Enforcement Jurisdiction

A. Municipalities shall inspect, investigate, and respond to all complaints regarding alleged violations, and may issue oral and written warnings, notices of violation, and engage in any other enforcement of this section as they deem appropriate. After taking action, a municipality may refer any alleged violations of this section to the Department for further enforcement.

B. Upon receipt of a referral from a municipality, the Department may investigate the alleged violations, and may initiate enforcement proceedings before the Administrative Adjudication Division. Alternatively, the Department may, in its discretion, following an investigation determine that enforcement is not warranted, or remand the referral back to the municipality for further enforcement at the municipal level. The Department may, in its discretion, undertake an investigation of noncompliance and take action as warranted.

5.7 Violations and Appeals

A. Any retail sales establishment issued an administrative penalty by the municipality pursuant to this Section may file an appeal in accordance with R.I. Gen. Laws Chapter 42-17.7 after exhausting any and all administrative procedures available in that municipality.

B. Any retail sales establishment issued an administrative penalty by the Department pursuant to this Section may file an appeal in accordance with R.I. Gen. Laws Chapter 42-17.7 and Part 10-00-1 of this Title (the "Rules and Regulations for the Administrative Adjudication Division") by presenting a written request for a hearing within twenty (20) days of the applicant's receipt of the

notice of the enforcement action. The written request must be presented to the Clerk of the Administrative Adjudication Division, 235 Promenade Street, Room 350, Providence, RI 02908.