
**TITLE 7 NATURAL RESOURCES & ENVIRONMENTAL CONTROL
DELAWARE ADMINISTRATIVE CODE**

1300 Waste Management Section

NOTE: DRAFT regulations as indicated with underlines

13XX At-Store Recycling Program

1.0 Declaration of Intent

1.1 The purposes of these regulations are to ensure the following:

1.1.1 At-store collection of plastic carryout bags and film are implemented, maintained, and consistent with 7 Del C.Ch. 60 Subchapter IX;

1.1.2 Every store provides an at-store recycling program for plastic bags and film that permits a customer to return clean and dry plastic bags and film to the store;

1.1.3 The plastic bag and film collection bin placed at each store, shall be visible upon entering the store, easily accessible to the consumer, and clearly marked that the collection bin is only available for the purpose of collecting and recycling plastic bags and film;

1.1.4 Plastic carry out bags and film enter the marketplace;

1.1.5 Reusable plastic bags and plastic carryout bags provided by stores must shift to containing a minimum of 5% post-consumer plastic resin starting January 1, 2022 to support recycling markets with the recycled content percentage increasing, per definition of recycled content plastic requirements, in subsequent years.

2.0 Scope and Applicability

2.1 Authority

2.1.1 These regulations are enacted pursuant to 7 Del.C. §6010(a);

2.1.2 These regulations shall be known as “At-Store Recycling Program Regulations”.

2.2 Applicability

2.2.1 These regulations apply to:

2.2.1.1 All stores in the State of Delaware;

2.2.1.2 All manufacturers of plastic bags sold to a store in Delaware.

2.3 These regulations exist in addition to At-Store Recycling Program requirements and definitions specified in 7 Del. C. §6099A.

3.0 Definitions

Notwithstanding any definitions in Chapter 60 or 64 of Title 7 or any other regulatory definitions found in the Delaware Regulations Governing Solid Waste to the contrary, the following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise.

“Marketplace” means a person or persons that utilize the majority, if not all, of the recyclable materials it receives to produce a marketable product. Incinerators, landfills, and other methods of disposal are disqualified as an acceptable marketplace.

“Paper bag” means a bag provided at check-out made of paper that meets all of the following requirements:

- a. is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) postconsumer recycled material;
- b. is capable of being composted, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard 06400;
- c. is accepted for recycling in the State;
- d. has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of postconsumer recycled material used;
- e. displays the word "Recyclable" and "Reusable" in a highly visible manner on the outside of the bag; and,
- f. does not contain plastic lining or plastic handles.

“Plastic carryout bag” means a plastic bag provided by a store to a customer at the point of sale made from plastic which meets the recycled content plastic requirements, is not compostable or biodegradable, and not specifically designed and manufactured to be reusable.

“Recycled Content Plastic Requirements” means any reusable or carry out bag manufactured from plastic, provided by a store within Delaware, that must contain recycled content resin according to the following schedule:

- January 1, 2022: 5% recycled content resin by weight;
- January 1, 2024: 10% recycled content resin by weight;
- January 1, 2026: 25% recycled content resin by weight;

“Recycled Content Resin” means plastic resin that is sourced from residential curbside, commercial or industrial recycling programs that can be integrated with virgin plastic resins to offset a percentage of the material used to manufacture any reusable or carry out bag made from plastic.

“Retail Sales Space” means total space within a Store, leased or owned, for the purposes of promoting, selling, or distributing goods and services to consumers.

“Reusable bag” means a fabric or plastic carryout bag which meets all of the following requirements:

- a. Is either a bag made of cloth or other fabric that has handles or is a durable plastic bag with handles that is at least 2.25 mils thick.
- b. Is designed and manufactured to be used for at least 125 uses.
- c. Has a volume capacity of at least 4 gallons (equivalent to 15 liters or 924 cubic inches).
- d. Is machine washable or made from a material that can be cleaned and disinfected.
- e. Has a tag or label attached to or printed on the bag with content information. Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health. A reusable bag manufacturer may demonstrate compliance with this requirement by obtaining a no objection letter from the federal Food and Drug Administration.
- f. Complies with 16 C.F.R. § 260.12 related to recyclable claims if the reusable bag producer makes a claim that the reusable grocery bag is recyclable.
- g. A reusable bag made from plastic film shall also meet the following requirements: it shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses and be at

least 2.25 mils thick, measured according to the American Society of Testing and Materials (ASTM) Standard D6988-13.

h. Reusable bags made of plastic must meet recycled content plastic requirements as per 1.1.5.

“Store” means an entity in Delaware, with a business license issued by the Delaware Department of Finance, Division of Revenue whose business activity includes the category “Retailer” and operates a physical location within Delaware consisting of a single location that has at least 7,000 square feet of retail space or three (3) or more locations each having at least of 3,000 square feet of retail space; stores that carry multiple business activity licenses are bound by this regulation; stores that carry a single business activity license of “Retailer – Restaurant” are exempt from these regulations.

4.0 General Provisions

4.1 Stores shall:

4.1.1 Establish an at store recycling program pursuant to 7 Del. C. §6099A that permits a customer of the store to return clean and dry plastic bags and film to the store;

4.1.2 Place a plastic bag and film collection bin at each store visible upon entering the store and easily accessible to the customer, clearly marked with “Please recycle plastic bags and film here”, and that the collection bin is available for the purpose of collecting and recycling plastic carryout bags and film;

4.1.3 Provide clear information on what types of plastic bags and/or film can be recycled within that location’s At Store Plastic Bag Recycling Program;

4.1.4 Not commingle source-separated plastic bags and film with other solid waste;

4.1.5 Ensure the plastic bags and film enter the marketplace;

4.1.6 Perform an annual review and measurement of the plastic bag and film collected and generated and maintain records of the review for three years;

4.1.6.1 A measurement period shall be a twelve (12) month period starting on January 1st and ending on December 31st of each calendar year;

4.1.6.2 Documentation for back haul programs shall include, but is not limited to:

4.1.6.2.1 A record of the weight of all plastic bags and film collected and sent for recycling;

4.1.6.2.2 Names and addresses of the designated marketplace for the recycled plastic bags and film;

4.1.6.2.3 Name of responsible party for managing the program for the store.

4.1.6.3 Documentation for mail back programs shall include, but is not limited to:

4.1.6.3.1 A shipping receipt documenting the date the box was shipped and the location where it was shipped to.

4.1.6.3.2 Name of the responsible party for managing the program for the store.

4.1.7 Ensure paper bags provided meet the definition in Section 3.0.

4.2 Retail establishment that:

4.2.1 Does not meet the definition of a store and that provides plastic carryout bags to customers at the point of sale may adopt a similar at-store recycling program, as specified in 7 Del. C. §6099A.

4.3 Manufacturers of plastic carryout bags shall:

4.3.1 Assist stores and ensure that all reusable bags sold within the State meet the ASTM 6988-113 standard;

4.3.2 Ensure that plastic bags classified as reusable contain a label that includes the following language, "This plastic bag is reusable and should be returned to Stores for recycling. Bags are not accepted in curbside recycling programs.";

4.3.3 Provide stores with recycling opportunities for reusable plastic bags and film to help increase diversion of this material where such programs exist and support store education efforts to educate consumers about plastic bag and film recycling programs;

4.3.4 Ensure that bags sold in Delaware meet the recycled content plastic requirements.

4.4 If a store has no recycling program for plastic bags and film, or if the store does not source separate plastic bags and film from other solid waste, they are not participating in an At Store Recycling Program and are subject to enforcement and penalties per Title 7 Chapter 60.