

Guidance Document for Plastic Waste Reduction Act

What entities are covered?

Any licensed enterprise where the sale or transfer to a customer of goods in exchange for payment occurs in a retail store, flea market, restaurant, or other food service establishment. This includes all entities that make deliveries of goods from retail sales establishments to customers .

What entities are excluded?

Farmers' markets, bazaars or festivals operated by nonprofit or religious institutions, yard sales, tag sales, or other sales by residents at their homes.

What types of bags are allowed?

Covered entities are not allowed to provide customers with single-use plastic bags, however they can provide bags that are defined as "reusable bag". **A reusable bag is a bag that satisfies all three of the following conditions.** (1) Handles that are stitched. The "handle" is stitched to the "bag". The bag is the component that contains material, while the "handle" is the component that allows the customer to hold the bag. (2) The bag is designed and manufactured for one hundred twenty-five (125) or more reuse. (3) The bag is 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.

What types of bags are not allowed?

Covered entities are not allowed to provide customers with "single-use checkout bag" which means a carryout bag that is provided to the customer at the point of sale for the purpose of transporting groceries or other retail goods and is made from compostable or non-compostable plastic and not specifically designed and manufactured for multiple re-use.

Are there any types of bags that are excluded from the rule?

Yes. The following bags are not covered by the rule.

- Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items.
- Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness or prevent contamination of other goods.
- Bags used to contain unwrapped prepared foods or bakery goods.
- Newspaper bags for home newspaper delivery.
- Door-hanger bags.
- Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing.
- Bags sold in packages containing multiple bags intended for household or commercial use to contain foods and for garbage, pet waste, or yard waste.
- Bags used to contain live animals, such as fish or insects sold in pet stores.
- Bags provided to transport partially-consumed bottles of wine.

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Can a retail establishment use-up plastic bags after the regulation are effective?

Summary of Inquiry: Retail Establishment made a bulk purchase of branded plastic bags many months ago and remaining inventory that is expected to use it up by end of January or early February. They do business in multiple municipalities and have already converted to paper bags where local ordinances are in effect. They are looking for guidance on how to manage their remaining inventory

Guidance: Although the statute establishes a hard deadline of January 1, 2024, some municipalities, in their enforcement of the requirement may allow a phase-in period for retailers to use existing inventory. So, it is recommended that retail establishments reach out to their local municipal authorities to see if they are allowed flexibility during the phase-in period.

Are plastic bags that are used to pre-package pharmaceutical excluded from the rule?

Summary of Inquiry: Retail establishment have a fulfillment center for their pharmacy that pre-fills prescriptions into plastic bags and send those to the store locations for direct distribution to their customers.

Guidance: The interpretation of the definitions section in the statute, specifically the types of bags that have exemptions “(ii) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness or prevent contamination of other goods” can be made such that pre-filled prescriptions in plastic bags are a means of containing/wrapping the item to prevent dampness & contamination.

Are plastic bags that are used to package oversize print orders excluded from the rule?

Summary of Inquiry: Retail establishment has specific oversize printed documents that require placing the printed item into a large plastic bag for the protection of their documents.

Guidance: The interpretation of the definitions section in the statute, specifically the types of bags that have exemptions “(ii) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness or prevent contamination of other goods” can be made such that large, printed documents are placed in plastic bags are a means of containing/wrapping the item to prevent dampness & contamination.