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# ICYMI: Statewide ban on polystyrene foam containers & loose fill



Say goodbye to these food containers. (Metro Creative Graphics)

DEC and partners continue targeted outreach and education campaign for foam manufacturers & distributors, affected entities including schools, hospitals, restaurants

Before the new year, Department of Environmental Conservation Commissioner Basil Seggos reminded New Yorkers the state's ban on expanded polystyrene foam containers and "packing peanuts" was to begin Jan. 1.

While an estimated 65% of New Yorkers are living in communities that have already banned polystyrene, New York's statewide ban on polystyrene foam containers and loose-fill packaging is among the first in the nation. DEC and partners continue outreach efforts to advise affected entities about the ban, particularly sellers and distributors of disposable food service containers, such as retail food stores, restaurants, hospitals and schools.

"Nearly two-thirds of New Yorkers already live in communities that are 'foam free,'" Seggos said. "New York City and Long Island are seeing the benefits of their foam bans with reduced litter on their landscapes and waterways. Now the rest of the state is poised to reap the benefits of a cleaner environment. DEC continues to focus on outreach to educate affected entities, but we know the foam ban will work and we look forward to less waste in our landfills in 2022."

DEC stated, "Expanded polystyrene (EPS) foam is a major contributor to environmental litter, causing negative impacts to wildlife, waterways and natural resources. EPS foam is lightweight, breaks apart easily, and does not

readily biodegrade, rendering it persistent in the environment and susceptible to becoming microplastic pollution. In addition, EPS foam containers and loose-fill packaging are not accepted by most recycling programs in New York state because the foam is difficult to recycle, easily contaminates the recycling stream, is often soiled, and has low value."

As of Jan. 1, New York's ban prohibits any person engaged in the business of selling or distributing prepared food or beverages for on- or off-premises consumption from selling, offering for sale, or distributing disposable food service containers that contain expanded polystyrene foam in the state. In addition, no manufacturer or store will be allowed to sell, offer for sale, or distribute polystyrene loose-fill packaging in the state. Disposable food service containers made of expanded polystyrene foam banned under the law include bowls, cartons, hinged "clamshell" containers, cups, lids, plates, trays or any other product designed or used to temporarily store or transport prepared foods or beverages, including containers generally recognized as designed for single use. Initially, DEC will focus its efforts to achieve compliance with outreach and education to ensure a smooth transition for affected stakeholders, with enforcement to follow as needed.

While the ban began Jan. 1, DEC will release final regulations to implement the law in the coming months to assist stakeholders with complying with the law. Draft regulations were released earlier in 2021. Visit the DEC website to learn more: <https://www.dec.ny.gov/regulations/123704.html>.

Examples of covered food service providers required to comply with the ban include:

- ✓ Food service establishments, caterers, temporary food service establishments, mobile food service establishments, and pushcarts as defined in the New York State Sanitary Code;
- ✓ Retail food stores, as defined in Article 28 of the Agriculture and Markets Law, which include any establishment where food

and food products are offered to the consumer and intended for off-premises consumption;

- ✓ Delis, grocery stores, restaurants, cafeterias and coffee shops;
- ✓ Hospitals, adult care facilities and nursing homes; and
- ✓ Elementary and secondary schools, colleges and universities.

Under the law, any facility, regardless of income, operated by a not-for-profit corporation or by a federal, state or local government agency that provides food and meals to food insecure individuals at no or nominal charge, may request a financial hardship waiver of the requirements of the law.

Examples include community meal programs, food pantries and places of worship. For more information, visit <https://www.dec.ny.gov/chemical/120762.html>.

DEC said, "Outreach and education efforts about the ban are underway, helping those affected by the new law get up to speed with the requirements. DEC continues to conduct outreach and education through the website, educational webinars, newsletters, listservs, magazines, social media, phone calls and email communications with stakeholders and the public. In addition, DEC is working in close partnership with other state agencies such as the departments of Health and Agriculture and Markets to distribute outreach materials to retailers and covered food service providers directly affected by this law. DEC is also working with other partners, such as the Pollution Prevention Institute, New York State Center for Sustainable Materials Management, and New York State Association for Reduction, Reuse and Recycling to ensure affected providers receive information regarding the ban."

"The EPS foam ban builds on New York's environmental leadership in preventing litter, reducing waste and supporting recycling through measures such as the ban on plastic carryout bags, the bottle bill, and food scrap recycling and food waste prevention efforts. For more information, go to: <https://www.dec.ny.gov/chemical/294.html>."

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