Upcoming Expanded Polystyrene Foam Food Container Ban
Say Goodbye to Foam and Forever Chemicals in Fast Food Packaging

by John Szalasny  December 3, 2021, 11:32 am  1 Comment

New York’s Foam Ban Starts 
January 1, 2022
https://on.ny.gov/FoamFreeNY
New York will enact two laws in 2022 that will make your take-out orders a little safer. You may know about the Expanded Polystyrene (EPS) Foam Food Container ban that goes into effect on January 1st. But you may not know about the New York State ban of PFAS (Per- and Polyfluoroalkyl Substances) in food packaging which goes into effect on December 31st. These two laws will apply to sales by covered food service providers and stores within the state.

The EPS Foam Food Container ban mirrors the ban currently in place in New York City. That ban, which went into effect in 2019, went through multiple legal challenges that have been addressed through the New York court system. That bodes well for the state law, as seen by a public comment period held by the Department of Environmental Conservation in November in which only one commenter asked for a delay in enforcement. The spokesperson for the group acknowledged the need for the foam container ban, but noted some issues with identifying new suppliers at comparable costs. The overwhelming majority of commenters were in full support of the bill.

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There were three reasons why former Governor Cuomo singled out EPS Foam Containers to be banned in his 2020 Executive Budget. First, these containers designed to keep your food warm are also leach out chemicals when exposed to hot foods. These containers are made from styrene monomers, a suspected cancer causing chemical. In addition, long term effects of styrene exposure have been linked to depression and hormonal dysfunction. The latter is because styrenes mimic estrogen, causing thyroid and menstrual irregularities. Styrene contamination accumulates in your body. Stored in the brain, spinal cord and nerves, it can lead to fatigue, nervousness and sleeping problems.

Secondly, EPS Foam cups and clamshells generate mountains of waste. EPS Foam is the poster child of the misuse of the chasing arrows symbol which indicates a recyclable item to many consumers. While it is technically recyclable, EPS foams are not collected for recycling in most communities in the United States as it is too fragile to collect in single stream recycling programs. The broken foam contaminates the other items in the load making it unusable to be turned into new product. Even though it is a light weight item, EPS foam makes up 20-25% of all landfill volume in the US.

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Third, the EPS foam container makes up a sizeable portion of curbside litter. Exposed to the weather, sun and wind, these containers break down into smaller and smaller pieces which look like food to birds, fish and small mammals. Once ingested, even pellet sized pieces accumulate in the digestive tracts of these animals.
Now that you know why our elected officials passed this legislation, let’s go over what changes you will see. As of January 1st, “Covered food service providers and stores (retail of wholesale) will no longer be allowed to sell, offer for sale, or distribute disposable expanded polystyrene foam food service containers in New York State. In addition, no manufacturer or store will be allowed to sell, offer for sale, or distribute polystyrene loose fill packaging (commonly referred to as packing peanuts) in the state.” Goodbye to the foam coffee cup and clamshell food container from your local takeout stop. But it also takes the foam plates and cups off retail shelves. And in-state shippers will no longer be able to use the loose fill foam that protects your packages, but is airborne as soon as you try to remove the item from the box.

“In-state shippers will no longer be able to use the loose fill foam that protects your packages.”

The law provides exemptions for containers used for raw meat, seafood, poultry or fish, and also exempts foods that are prepackaged and sealed prior to receipt by a covered food service provider. So, your local grocer will still be able to sell plastic wrapped steaks and chops on the foam trays and cups of Ramen noodles will still be on the shelves. For more information on the EPS Foam Container and Loose Fill Packaging Ban, visit the DEC website page at on.ny.gov/FoamFreeNY.

Compared to the visible changes at the beginning of the year, the ban on PFAS in food packaging sold or distributed in the state at the end of the year will be much less noticeable. Sometimes referred to as “forever chemicals” because they never break down completely, PFAS are a class of chemicals that are used for its non-stick and waterproofing qualities. Famous brands, such as Teflon and Scotchgard have been making use of its unique qualities. It is also a common add-on to takeout food containers and wrappers as it is resistant to grease.

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Unfortunately, these chemicals have been associated with health and environmental impacts. New York has previously designated two PFAS chemicals, PFOS and PFOA as hazardous substances under state regulations. Similar to the Expanded Polystyrene foam container, heated foods leach chemicals from the PFAS lined containers and wrappers and are absorbed by the foods. The chemicals do not degrade in the body – in fact, these chemicals also accumulate in the body. Studies have shown links to kidney and testicular cancer due to PFAS exposure and it is also an endocrine disruptor.

Kudos to the New York State legislature for passing these bills, which will protect the health of New Yorkers with minimal cost impacts on retailers. With an observable track record in other states, it was the right time for the bans, especially as there are safer food packaging alternatives for both EPS foam containers and PFAS coatings.

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John Szalasny is someone who cares about our planet. Born too late to join in on the first wave of organized environmental action in the 60’s, I’m making up for lost time as I get nearer to retirement on various environmental concerns including the plastic waste crisis. Check out my Facebook group Bring NYC’s Styrofoam Ban to My Hometown! https://www.facebook.com/groups/2098476837129562/.

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Are the clear plastic clamshell containers recycleable? They have a "1" pete recycle symbol on them but I've heard mixed messages about whether they are easily recycled. I'm assuming most places will use those from now on for to-go containers.