



sanitation

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Appellate Decision Paves the Way for New York City's Ban on Single-Use Foam Products

**Ban to go into effect January 1, 2019;
Enforcement to Begin July 1, 2019**

The New York City Department of Sanitation has announced that following the New York Supreme Court, Appellate Division's recent decision and order, the city's ban on single-use foam products will proceed.

After a multi-year legal process, the Appellate Division First Department determined that the Commissioner rationally concluded that the City's expanded polystyrene single service articles cannot be recycled in a manner that is environmentally effective and economically feasible. Accordingly, by operation of local law, a ban on foam food service items and packing peanuts takes effect January 1, 2019.

"After careful study, we determined that foam cannot be recycled. This material is a major source of litter, clogs storm drains, contaminates our recycling stream, and can harm sea life and our waterways, among other problems," said Sanitation Commissioner Kathryn Garcia. "We are pleased with the Appellate Division's ruling to uphold the court's decision which will finally allow us to remove this problematic material from our waste stream for good. We look forward to continuing the educational and outreach portion of our work to ensure affected city businesses are aware of the final ruling, and are prepared for its upcoming implementation."

Local Law 142, passed by the Council and approved by the Mayor in December 2013, required the Sanitation Commissioner to determine whether expanded polystyrene (EPS) single service articles can be recycled in a manner that is "economically feasible," "environmentally effective," and "safe for employees." Under the law, if the Commissioner found that the material was not recyclable, foam food service items and packaging peanuts were then banned.

About the ban:

- Manufacturers and stores may not possess, sell or offer single-use foam items such as cups, plates, trays, or clamshell containers in the City. The ban also covers the sale of polystyrene loose fill packaging, such as "packing peanuts."
- The ban begins January 1, 2019 and there will be a six-month grace period before fines can be imposed. The Department of Sanitation and other city agencies will continue to

conduct outreach and education in multiple languages to businesses throughout all five boroughs.

About foam, or expanded polystyrene (EPS):

- Expanded polystyrene is a plastic resin manufactured into consumer products such as “foam” cups, containers, trays, plates, clamshell cases and egg cartons.
- The Department of Sanitation collected approximately 28,500 tons of expanded polystyrene in Fiscal Year 2014 and estimates that approximately 90 percent of that is from single-use food service products like cups, trays and containers.
- EPS is a major source of neighborhood litter and hazardous to marine life. EPS foam is a lightweight material that can clog storm drains and can also end up on our beaches and in New York Harbor. EPS containers can break down into smaller pieces, which marine animals may mistake for food. The environmental assessment prepared in connection with Local Law 142 found that expanded polystyrene particles can wind up in the harbor, and in the floating gyre of non-biodegradable plastic debris that has been found in the Atlantic Ocean – creating a hazard for marine life such as sea turtles and fish.
- EPS is a contaminant of the city’s organics program. The presence of EPS foam in NYC’s waste stream has a detrimental effect on the City’s organic collection program. During the collection process, foam can break down into small pieces that get mixed in with and contaminate organic material, rendering it unmarketable for anaerobic digestion or composting.
- EPS is already banned in cities across the country, including Washington, DC, Minneapolis, San Francisco, Oakland, Portland, Albany, and Seattle. In total, more than seventy North American cities have banned foam and businesses large and small have shifted to alternative products that are biodegradable or otherwise recyclable.

About the New York City Department of Sanitation

The Department of Sanitation (DSNY) keeps New York City healthy, safe and clean by collecting, recycling and disposing of waste, cleaning streets and vacant lots, and clearing snow and ice. The Department operates 59 district garages and manages a fleet of more than 2,000 rear-loading collection trucks, 450 mechanical brooms and 695 salt/sand spreaders. The Department clears litter, snow and ice from approximately 6,500 miles of City streets and removes debris from vacant lots as well as abandoned vehicles from City streets.