



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF SUSTAINABLE WASTE MANAGEMENT

BUREAU OF SOLID WASTE PLANNING & LICENSING

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POLYSTYRENE FOAM FOOD SERVICE PRODUCT EXEMPTION EXTENSION

N.J.S.A. 13:1E-99.125 et seq (Law) restricts persons from selling or offering for sale any polystyrene foam food service product in the State. In addition, no food service businesses shall provide or sell any food in a polystyrene foam food service product.

For a period of two years beginning 18 months after the effective date of the Law (May 4, 2022), certain polystyrene foam food products were exempted from these restrictions. These exemptions, established by the Law, have been extended and are set to expire on May 4, 2025. The Law provides that the Department may extend the exemptions for additional periods not to exceed one year upon a written determination that there is no cost-effective and readily available alternative for the item. The Department has decided to extend the exemption period for the following items.

- Meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance.

The Department will be extending this exemption for an additional year, until May 4, 2026. Affected businesses have provided detailed documentation that alternatives are not currently cost-effective or readily available. Alternatives to foam trays that can withstand the moisture from raw meat, poultry or fish's and risk of food spoilage from exposure come with an undesirable discoloration effect that may increase food waste. Moreover, extending this exemption would grant affected industries additional time so that alternative products can become available, and the costs of such alternatives would be more reasonable.

- Any food product pre-packaged by the manufacturer with a polystyrene foam food service product.

The Department will be extending this exemption for an additional year, until May 4, 2026. A large number of businesses that use polystyrene foam egg cartons have provided the Department with sufficient documentation to support the claim that supply for alternative packaging is too low to replace current demand, but that in time, alternatives will be available. One of the most common alternatives to foam are pulp cartons, but research indicates that there are only two manufacturers of these cartons nationwide and they do not have the capacity to meet the current demand by May 4, 2025. Other manufacturers that produce prepackaged products have contacted the Department to seek an extension due to documented concerns regarding the availability of alternative products.

These businesses include ramen noodles prepackaged in polystyrene cups. These manufactures are currently working to source alternative packaging or are in research and development to create compliant alternatives that still maintain the integrity of their product. These manufactures seek to remain in compliance with the Law, however, they are seeking additional time to achieve compliance.

- Any other polystyrene foam food service product as determined necessary by the Department.

The Department will be extending this exemption for an additional year, until May 4, 2026. This exemption allows the Department to reserve the right to continue exemptions should there be industry-wide barriers not identified in the previous exemptions identified above, that make alternatives to foam products not cost effective, readily available, or feasible to use.

Questions on these extensions can be directed to Julia Rossi at singleuseplastics@dep.nj.gov.

