

6 NYCRR Part 353

Expanded Polystyrene Foam Container and Polystyrene Loose Fill Packaging Reduction

SUMMARY OF EXPRESS TERMS

This rulemaking adds a new Part 353, Expanded Polystyrene Foam Container and Loose Fill Packaging Reduction, to set forth the requirements of Title 30 of Article 27 of the Environmental Conservation Law with respect to the prohibition on expanded polystyrene foam containers and loose fill packaging; financial hardship waiver application process; cost comparison analysis for alternative packaging; definition of the terms “comparable cost” and “undue financial hardship;” and hardship waiver approval, renewal, and revocation criteria.

Subpart 353-1 General Provisions

A new Subpart 353-1 sets forth the purpose and applicability and the definitions used in the regulations. Key statutory terms, such as “pre-packaged” and “single-use” are defined. This Subpart also addresses exemptions, violations and enforcement, severability, and preemption, including how a county can file a written declaration of its intent to enforce its local law as long as the law provides environmental protection equal to or greater than the state law and Part 353.

Subpart 353-2 Expanded Polystyrene Foam Container and Loose Fill Packaging Ban

A new Subpart 353-2 establishes the prohibitions related to the sale, offer for sale, and distribution of expanded polystyrene foam containers and polystyrene loose fill packaging. It addresses eligibility criteria for facilities and covered food service providers who may apply for a financial hardship waiver from certain requirements in the law and the application process. This Subpart also defines the terms “comparable cost” and “undue financial hardship,” as these terms relate to the approval criteria for a financial hardship waiver, and addresses hardship waiver

approval, renewal, and revocation.