

For immediate release:
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OVER 60 ORGANIZATIONS RELEASE LETTER CALLING FOR PLASTIC BAG REGULATIONS TO FOLLOW INTENT OF LAW

(Albany, N.Y.) Advocates released a letter with over 60 organizational backers to highlight concerns with the Department of Environmental Conservation's (DEC) proposed regulations in relation to New York State's plastic bag ban. Chief amongst the concerns outlined is a provision that would allow thicker plastic bags in New York. Advocates went over deficiencies in the regulations and called on DEC to fully enforce on the March 1st enactment date regardless of the status of the regulations.

Advocates voiced their strong support for New York's plastic bag ban law. New Yorkers use an estimated 23 billion plastic bags every year. A significant number of these bags make their way into the environment causing litter and damaging wildlife, which can be seen within waterways, along streets and in oceans and lakes. Moreover, these bags do not biodegrade – they persist for years. The New York City Department of Sanitation currently estimates that it collects an average of 1,700 tons of plastic bags per week, costing \$12.5 million per year in disposal expenses.

The comment period on the proposed regulations is set to close on Monday, February 3rd and the law will take effect on March 1st. Consumers should be prepared to use reusable bags in time for March 1st.

Judith Enck, former EPA Administrator and founder of Beyond Plastics, said, "New Yorkers use a staggering 23 billion plastic bags every year. Plastic pollution is a major problem and state legislators and Governor Cuomo did the right thing by banning plastic bags in April 2019. However, the NY Department of Environmental Conservation has proposed draft regulations that would allow thick plastic bags to be handed out to consumers. This would be a monumental mistake which the DEC thankfully has time to change before the law takes effect on March 1st."

Liz Moran, Environmental Policy Director for NYPIRG, said, "New York made the right move to fight climate change and protect the environment by banning plastic bags. But now the impact of that action is threatened by regulatory language to allow for thicker plastic bags. Plastic bags are plastic bags – to maintain New York's status as a climate champion, DEC must ensure regulations follow the intent of the law and won't allow the distribution of plastic bags, regardless of thickness, starting March 1st."

Kate Kurera, Deputy Director for Environmental Advocates of New York, said, "New York is making a strong statement about valuing our environment, fighting climate change, and protecting public health by banning plastic bags. Unfortunately, DEC has proposed regulations that undermine the intent of the law, which is to ban plastic carryout bags, by opening the door to

plastic bags of a certain thickness. There are deficiencies in these proposed regulations that need to be addressed; however, there is nothing that should delay the plastic bag ban from coming into effect on March 1. We look forward to March 1st when plastic bags are banned in New York and working with the DEC to ensure any regulations are effective as possible."

Charlie Olver, Policy Associate for NYPIRG and student at SUNY New Paltz, said, "Every minute, the ocean receives a garbage truck worth of plastic - up to 8 million metric tons a year. 100 billion are consumed in the United States, and 23 billion in NYS alone. With alternatives already circulating in the market, and the environmental, public health, and economic risks plastic bags pose, using them has become an unnecessary risk. Banning all plastic bags is crucial to reduce this stream of waste, because thicker bags will only be used in the same way."

January 31, 2020

Commissioner Basil Seggos
Attn: Kayla Montanye
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-0001

Re: New York State Department of Environmental Conservation's proposed 6 NYCRR Part 351 Plastic Bag Reduction, Reuse, and Recycling that sets forth the requirements of Titles 27 and 28 of Article 27 of the Environmental Conservation Law

Dear Commissioner Seggos:

We, the undersigned organizations, write to express our concerns about certain provisions within the draft regulations to implement New York State's forthcoming plastic bag ban. We strongly support New York's ban on plastic carryout bags and wish to ensure that the intent of the law is upheld.

The goal of the law is to ban all plastic carryout bags. However, the Department of Environmental Conservation's (DEC) proposed regulations allow for certain types of plastic carryout bags to be used, as well as provide thickness criteria, both of which were not included in the state law. We see three serious issues with the draft regulations that we urge the DEC to change.

First, the law bans plastic bags (except for the stated exceptions in the law such as dry cleaners and newspapers); however, the proposed regulations would allow stores to continue to give out plastic bags for free if the plastic bags are 10 mils or thicker. (Sec. 351-1.2(n)(5)(i)). The law bans plastic carry out bags and does not allow thicker plastic bags; therefore, the regulations should not do so either.

If not clarified, this would present a serious policy shift. This change would allow stores to distribute for free and/or sell thicker plastic bags that are nearly identical to the single-use plastic carryout-style bags that consumers are already familiar with and accustomed to disposing of after one use. Most consumers will *not* use these thicker plastic bags as reusable bags - the thicker bags will simply end up in all the same problematic places as their thinner counterparts.

The DEC has asserted that 10 mil plastic bags are not currently used at supermarkets. That may be true today but not necessarily in the future. The DEC should not incentivize plastic bag manufacturers to create thicker plastic bags of 10 mils or more. We suggest that DEC amend the proposed regulations regarding reusable bags to eliminate the 10 mils requirement and instead ban all plastic carryout bags, as required by existing law.

Second, the section of the proposed regulations (Sec. 351-1.2(f)(12)) that enables the DEC to exempt stores from complying with the law on a case-by-case basis should be removed. The law does not provide the DEC the authority to allow for such a discretionary power to determine when there is no “reasonable or practical alternative” for a film plastic bag. Moreover, the inclusion of providing for a new category of exempt ‘film plastic bag’ is inconsistent with the law.

Third, (Sec. 351-1.2(f)(9)) of the regulations exempts food service establishments defined by the New York Sanitary code that provide carry out or delivered food. We urge the DEC to clarify this to ensure that small stores and gas stations that serve food will not be exempt from the plastic bag ban.

The New York State Legislature enacted legislation to ban single-use plastic bags due to a wide range of environmental, health, litter and financial concerns which the DEC, itself, has documented. Residents of New York State use approximately 23 billion single-use plastic bags every year. These bags are used for an average of 12 minutes before being discarded to be buried in a landfill, burned in an incinerator (which pollutes our air and harms public health) or littered on land or in water, where they will break into smaller and smaller pieces over hundreds of years.

Plastic bags can also be deadly for wildlife, particularly marine wildlife. Single-use plastic bags resemble jellyfish and are a commonly found synthetic item in sea turtles’ stomachs. As the bags break into smaller pieces, they are eaten by many species of marine wildlife, sickening them and entering our food chain. Nine million tons of plastic enter our oceans each year. If we do not take comprehensive action to reduce the use of plastic packaging such as single-use bags, the amount of plastic waste entering the oceans will double between 2015 and 2025.

We urge you to revise the proposed regulations to remove and/or clarify the damaging provisions cited above and ensure that the law fulfills its stated intention of reducing single-use plastic pollution in our state.

Thank you for giving serious consideration to how New York State can best address the burgeoning plastic pollution and climate change crises, and thank you for your consideration of our comments.

Sincerely,

Judith Enck, Founder, Beyond Plastics

Elizabeth Moran, Environmental Policy Director, NYPIRG

Kate Kurera, Deputy Director, Environmental Advocates of New York

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