



February 6, 2012

The Honorable Lara Anderson
Mayor, City of Dana Point
33282 Golden Lantern
Dana Point, California 92629

**Subject: ADDENDUM TO DECEMBER 9, 2011 LETTER CONCERNING POLYSTYRENE
FOODSERVICE BAN**

Dear Mayor Anderson:

On December 9, 2011 the Plastics Foodservice Packaging Group (PFFG) of the American Chemistry Council (ACC) submitted a letter opposing a proposed ordinance to ban polystyrene food service products. Though we appreciate city staff including our previous comments in the current agenda packet, we are concerned with several points that remain in the staff report. To that end, we urge you to consider the following:

Though the staff report makes various claims associated with the environmental impact of polystyrene litter, including that "EPS litter remains indefinitely in the environment", the report fails to acknowledge potential environmental impacts of alternate products or how a switch from one material type to another would not provide a net reduction in litter.

Please bear in mind that all forms of packaging have an environmental footprint. For example, compostable products do not degrade in the natural environment. Peer reviewed life cycle studies, as recently as 2011, demonstrate the low overall environmental footprint of polystyrene foam foodservice compared to alternate foodservice products, such as paper-based coated paperboard and PLA-coated bio-based paperboard foodservice. Link to the full study is: http://www.americanchemistry.com/s_acc/sec_news_article.asp?CID=206&DID=11794

The staff report also makes an allegation that "polystyrene is also a potential health concern." This comment is not substantiated by either the U.S. Food and Drug Administration (FDA), or the National Institute of Environmental Health Sciences (NIEHS).

- FDA Tests Show Polystyrene Foodservice is Safe (link to full study <http://www.plasticfoodservicefacts.com/Safety-of-Styrene-Based-Polymers-for-Food-Contact>):

Polystyrene that is used to make hot and cold drink cups is made up of very large and inert molecules that are non-toxic and do not migrate readily into drinks. The U.S. Food and Drug Administration (FDA) regulates the safety of food-contact packaging. This responsibility includes setting standards for minimizing residual materials present in packaging. FDA regulations allow the use of polystyrene as a food-contact packaging material. Polystyrene can contain low levels of residual styrene and ethylbenzene from the manufacturing process. Since the early 1990s, the polystyrene industry has conducted tests and provided the FDA with data that demonstrates that the minor amount of styrene and ethylbenzene that migrate out of food-contact styrenic polymers do not pose a health risk. These tests, conducted for ethylbenzene in 1993 and for styrene in 1997 and updated by the Polystyrene Packaging Council's (PSPC) PS Technical Committee in 2002 (*Update: The Safety of Styrene-Based Polymers for Food-Contact Use*), have been submitted to FDA's master file and show that the maximum amount of these substances that could migrate from PS food-contact packaging is very small and presents no health and safety concerns.

- National Institute of Environmental Health Sciences (NIEHS):

The staff report comment is not supported by scientific fact and it contradicts the information provided by the National Institute of Environmental Health Sciences (NIEHS) which states on its website "*Styrene should not be confused with polystyrene (Styrofoam). Although styrene, a liquid, is used to make polystyrene, which is a solid plastic, we do not believe that people are at risk from using polystyrene products.*" You can access the NIEHS full statement at: <http://www.niehs.nih.gov/news/media/questions/sya-roc.cfm#s25>. This excerpt was taken directly from their web site:

"My kids eat off polystyrene trays in the cafeteria and eat and drink from polystyrene products. Are they at risk of getting cancer?"

Styrene should not be confused with polystyrene (Styrofoam). Although styrene, a liquid, is used to make polystyrene, which is a solid plastic, we do not believe that people are at risk from using polystyrene products. The listing in the RoC is specific for styrene and is based on studies of workers exposed to high levels of styrene in the workplace.

It is thought that styrene occurs in some foods at very low levels naturally, and if leaching of styrene into foods from polystyrene occurs, the levels of styrene remain very low. Measurements of styrene in foods packaged in polystyrene show that levels in food are still orders of magnitude lower than air levels in the workplace where styrene is used. The RoC listing of styrene was based on high levels of exposure such as that experienced by workers exposed to styrene in an industrial setting and it was not based on the very small amount of styrene that may possibly leach from a Styrofoam cup or plastic containers.

Furthermore, the toxicologist who heads the National Toxicology Program was widely quoted in June 2011 news reports: "Let me put your mind at ease right away about Styrofoam" and noted that levels of styrene from polystyrene containers "are hundreds if not thousands of times lower than have occurred in the occupational setting ... In finished products, certainly styrene is not an issue."

Additionally, the staff report contains arguments from proponents that this ordinance will help reduce litter clean-up costs and result in savings for taxpayers. The staff report does not provide any empirical evidence that a ban on polystyrene foam would result in overall litter control and reduced clean-up costs for local governments, nor has staff explained how current economies of scale while cleaning up other litter items do not absorb the marginal costs of food service EPS clean-ups.

Our organization has consistently been on record stating that any regulation governing "to-go" containers should focus on ALL takeout food packaging, regardless of material type, not just polystyrene. As drafted, the proposed ordinance will simply result in shifting the composition of the litter stream. Though we appreciate and support the city of Dana Point's intent to reduce litter and disposal, we believe the better policy approach would be to establish a clear recycling and composting standard by which ALL material types must meet. Despite information you may have seen, polystyrene recycling programs are on the rise and many communities in California are including polystyrene material in their local collection programs. A list of these communities can be accessed at: <http://www.dart.biz/recycleCA>, and information on plastics foodservice recycling can be found at http://www.plasticfoodservicefacts.com/main/Environment/Recycling_1.html

Thank you for considering our views. Should you have any questions or comments, please contact me at 916-448-2581 or via email at ryan_kenny@americanchemistry.com

Sincerely,



Ryan Kenny
Manager, State Affairs
American Chemistry Council

Cc: Members, Dana Point City Council
City Clerk

