

Communication from Public

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Comments for Public Posting: Attached is a letter from the following organizations in opposition to Agenda Item #29 on the November 9, 2022 City Council agenda. Thank you in advance for considering our views.
American Chemistry Council Plastics Industry Association Valley Industry & Commerce Association Western Growers Association California Retailers Association California League of Food Producers Los Angeles County Business Federation Dart Container Corporation Western Plastics Association California Restaurant Association Foodservice Packaging Institute California Manufacturers & Technology Association Pactiv Evergreen Tekni-Plex Consumer Technology Association California Fuels & Convenience Alliance California Chamber of Commerce American Institute for Packaging and the Environment (AMERIPEN) California Fisheries and Seafood Institute



November 8, 2022

The Honorable Paul Krekorian, President
Los Angeles City Council
200 North Spring Street, Room 340 City Hall
Los Angeles, CA 90012

RE: **Agenda Item #29 – November 9, 2022 - OPPOSE**
ENERGY, CLIMATE CHANGE, ENVIRONMENTAL JUSTICE, AND RIVER COMMITTEE REPORT
relative to adding Article No. 5 to Chapter XIX of the Los Angeles Municipal Code, to
prohibit the distribution and sale of expanded polystyrene products (EPS) commonly
referred to under the trade name Styrofoam.

Dear Council President Krekorian:

The undersigned organizations, representing a cross-section of material suppliers, packaging manufacturers, food producers, restaurants, retailers and others, are respectfully opposed to the proposed ordinance prohibiting the distribution and sale of expanded polystyrene products.

We certainly support the intent of reducing packaging waste and disposal and it is for this very reason many of us were constructively engaged in the enactment of [SB 54](#), legislation authored by Senator Ben Allen (D) and signed into law by Governor Gavin Newsom (D) establishing the Plastic Pollution Prevention and Packaging Producer Responsibility Act.

SB 54, among other things requires that producers achieve a 25% source reduction of plastics in single-use products by 2032 and a 30% recycling, reuse or composting rate for single-use plastics by 2028, followed by a 40% rate by 2030 and a 65% rate by 2032. The law also requires producers to help finance improvements to the state's recycling and composting infrastructure so that more material can be recycled, and reduce the cost burden to local governments, waste haulers/recyclers, and the public. Eco-modulated fees on packaging paid by producers will undoubtedly re-shape the packaging market over the next decade and the law will help create more robust end-use markets for material collected for recycling and composting.

The law also requires producers and plastic resin manufacturers to pay \$500M per year for 10 years into an environmental mitigation fund to support a variety of recycling and natural resource related projects and programs.

Importantly and specifically related to the proposed ordinance is SB 54 imposes specific recycling rate requirements on expanded polystyrene foodservice products:

“Producers of expanded polystyrene food service ware shall not sell, offer for sale, distribute, or import in or into the state expanded polystyrene food service ware unless the producer demonstrates to the department that all expanded polystyrene meets the following recycling rates:

(A) Not less than 25 percent on and after January 1, 2025.

(B) Not less than 30 percent on and after January 1, 2028.

(C) Not less than 50 percent on and after January 1, 2030.

(D) Not less than 65 percent on and after January 1, 2032, and annually thereafter.”

It is important to point out that other expanded polystyrene packaging will continue to be subject to the plastic recycling rate requirements contained in SB 54. Enactment of a statewide comprehensive packaging recycling and reduction policy enables the regulated community to clearly understand the compliance requirements, work to support recycling and composting programs, and develop end use markets so that collected material can be used as feedstock in the production of new packaging.

A one-off ordinance that bans a specific packaging material has the potential to unnecessarily disrupt the intended extended producer responsibility (EPR) system created under SB 54. The passage of SB 54 took several years and involved significant discussions with a wide range of stakeholders. This new law should be given time to work before local governments adopt separate packaging requirements. A statewide uniform set of rules can help drive system efficiencies and ensure materials are available that are best suited and cost-effective for specific uses and customers. The proposed ordinance would be fully implemented beginning April 22, 2024, just a few months before the first EPS foodservice recycling rate requirement must be met. We question whether the city’s expenditures of time and resources to implement this ordinance is necessary given the passage of SB 54.

Finally, we understand the City has determined this ordinance qualifies for a categorical exemption under the California Environmental Quality Act (CEQA). The accompanying analysis concludes that “the ordinance would not result in a significant impact, either direct, indirect, or cumulative...The analysis is based on the assumption that there will be a shift away from EPS products due to the ordinance to other substitute products, where they are available.”

The report goes on to say “It is reasonably foreseeable that a wide spectrum of replacement products will be made from a variety of materials and used as replacements in various degrees within different contexts. Therefore, a life-cycle analysis of the potential substitute products is not warranted nor possible for the proposed ordinance because a large number of potential replacement material and product combinations could be used to replace EPS products.”

It is not clear from the information presented whether likely replacement products to EPS packaging (especially food service packaging materials) can be effectively recycled and composted within the city limits. Will city residents be able to recycle or compost food service containers and do end use markets current exist for these materials?

The City's [recycling webpage](#) states that "Heavily soiled papers or bags with oils or food waste should be placed inside the black bin" meaning those materials will be sent to a landfill. Forcing restaurants and others to shift to packaging materials that may not be accepted in the city's own recycling programs raises questions as to the overall impact of the proposed ordinance. We believe that prior to enacting any such ordinance, the City should conduct a more robust environmental impact analysis so that these questions and issues can be more fully addressed.

Though we support policies that expand recycling programs, reduce waste and create new markets for recovered materials, we believe these objectives are better achieved under the system established by SB 54. We encourage the City to work with the business community to ensure the successful implementation of the state's new packaging law. Thank you for the opportunity to share our views.

Sincerely,

Tim Shestek
American Chemistry Council

Kris Quigley
Plastics Industry Association

Stuart Waldman
Valley Industry & Commerce Association

Gail Delihant
Western Growers Association

Steve McCarthy
California Retailers Association

Trudi Hughes
California League Food Producers

Sarah Wiltfong
Los Angeles County Business Federation

Jonathan Choi
Dart Container Corporation

Cherish Changala
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Matt Sutton
California Restaurant Association

Carol Patterson
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Rob Spiegel
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Lynn Dyer
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