

Monday, January 27, 2020

Chair Liz Krueger
NY State Senate Finance Committee
172 State Street, Capitol Building
Room 416 CAP
Albany, NY 12247

Chair Helene Weinstein
NY State Assembly Ways and Means Committee
LOB 711-A
Albany, NY 12248

Re: Expanded Polystyrene Ban and Product Packaging Regulatory Proposal in FY2021 Executive Budget Proposal

The Honorable Chairs Krueger and Weinstein:

We respectfully write to express our concerns with the Governor's proposals to ban certain expanded polystyrene products and to empower the Department of Environmental Conservation to promulgate regulations for other packaging types without clear direction from the legislature. We believe further study and discussion needs to take place to understand how to capture more plastic materials before they are landfilled or littered, and to identify a more appropriate policy response. To that end, we ask that you remove Part PP Title 30 from the legislative proposal.

The Plastics Industry Association (PLASTICS) represents the entire supply chain of manufacturers of any and all plastic products. In New York alone, that equates to 33,000 jobs (over 2 million when factoring in downstream supported industries) and \$136 billion in payroll. We are firmly committed to manufacturing products that meet the environmental, social and business needs of the consumers – that includes doing our best to ensure our industry's products are handled properly at the end of their useful life. Recently we have partnered to find new ways to capture more plastic material from the waste stream for reuse or for advanced recycling applications. Expanded polystyrene is no exception to this endeavor.

It's no surprise that expanded polystyrene is the popular choice to meet consumer demands. It exceeds its needs to keep food and beverages hot or cold; it's efficient for manufacturers to produce and cost-effective for business to incorporate into their operations; and it is environmentally friendly to produce in terms of water/energy usage, greenhouse gas emissions, and transportation costs and efficiencies. Existing recycling systems have been in place to handle some of this material, but social pressures and business realization has increased the demand for these recycling services. It's no doubt that the current infrastructure and participation in the expanded polystyrene recycling supply system is lacking, but this is not a reason to ban this material. Shifting to alternative materials will have a number of negative consequences. Namely, alternatives cost more for small businesses (94% and more in some places)¹, the environmental impacts of alternatives like paper packaging or metal are more resource-intensive and emit more carbon emissions² and there is a lacking infrastructure for popular alternatives like compostables³.

To find a solution to the problems with collection, PLASTICS participated in an industry-sponsored project in the Portland, Oregon region to capture previously difficult-to-recycle items like polystyrene. A small, portable system was established in the region (known as a secondary sort) to process the residual material from the region's existing material recovery facilities that would under normal conditions be sent to landfill. These streams are known to obtain material that was meant to be captured and other material that maintains value. For a variety of technological, economical and logistical reasons, these may sometimes go inadvertently to landfill. However, as our demonstration project showed, we were able to capture some of this material. Results show that 50,000 tons per year of additional recyclable materials

¹ <https://www.plasticfoodservicefacts.com/wp-content/uploads/2017/10/NYC-Foodservice-Impact-Study.pdf>

² https://www.plasticfoodservicefacts.com/wp-content/uploads/2017/12/Peer_Reviewed_Foodservice_LCA_Study-2011.pdf

³ Compostables, Meant to Cut Plastic Waste, Are Stumbling. *Wall Street Journal*. Retrieved from <https://www.wsj.com/articles/compostables-meant-to-cut-plastic-waste-are-struggling-11548172800>.

could be recovered from the region, including 800 tons of polystyrene. We hope that similar systems can be implemented in regions across the country where appropriate. More can be found at PNWSort.org.

Furthermore, this proposal cedes too much authority to the Department in regard to regulating packaging without including any guidelines or guardrails. The Department would be authorized to implement more bans, restrictions, fees, etc. "as it shall deem necessary" under any timescale it determines. The implication of such, with New York being the fourth most populous state in the country, could have dire impacts on businesses that have well-established supply chains and operations. The alternatives simply would not be sufficient to serve such a population as effectively and efficiently as the current plastic packaging solutions on the market do. Instead, the legislature should consider the facts, opportunities and tradeoffs of such a policy and delegate more instructive authority to the Department if it finds convincing evidence to do so. The state should allow the market (product manufactures, brand owners and recyclers) to continue the work they are doing to ensure sustainable management of their products and packaging throughout their useful life.

We hope that the legislature will recognize the shortfalls of these policies and consider the more sustainable solutions that are being established that simply need to be scaled up. Bans, which seem like an easy fix, in fact have unintended consequences that negatively impact the goals the state is striving to achieve. We do support the fact that the Governor and the legislature are considering these issues and want to play a role in finding a solution to the waste and litter problems that exist. All parties – consumers, manufacturers, governments, recyclers and more – will need to play a part in the solution.

To learn more about the positive impact of plastics, please email me (SCrawford@plasticsindustry.org) or visit our websites www.plasticsindustry.org or www.ThisIsPlastics.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Crawford". The signature is fluid and cursive, with a large initial "S" and "C".

Shannon Crawford
Director, State Government Affairs
Plastics Industry Association