



Expanded Polystyrene Bans “Hold the Foam”

Number of California Cities & Counties covered by an EPS ordinance - at least 97 (see Californians Against Waste website, here: <http://www.cawrecycles.org/polystyrene-local-ordinances/>)

Recently expanded EPS bans

- San Francisco, CA - prohibits the *sale* and *distribution* of non-compliant foam food ware; prohibits food vendors and restaurants (and the city) from *using* non-compliant foam food ware; and prohibits the *sale or distribution* of non-encapsulated foam coolers, pool or beach toys, packing materials, dock floats, etc. (See ordinance here: <https://sfgov.legistar.com/View.ashx?M=F&ID=4607860&GUID=8CD8DC94-408D-4F02-9938-C7E160C4AA94>)
- Manhattan Beach, CA - revised their existing EPS ordinance to prohibit the *sale* of any polystyrene food ware or polystyrene foam coolers where the foam is not fully encased in another material. (see attachment)
- Miami Beach, FL - in addition to a prohibition on food vendors selling or using polystyrene foam food ware, prohibits people from carrying any expanded polystyrene product on to any beach or park within the city. (see Miami Beach Municipal Code Section 46.92(c): "Prohibitions on beaches, marinas, piers, docks, boat ramps, and in parks. It shall be unlawful for any person to carry onto any beach within the city a glass or metal bottle or other glass or metal container. In addition, it shall be unlawful for any person to carry any expanded polystyrene product onto any beach or park within the city, or onto any city marina, pier, dock, or boat ramp, or for any business to provide plastic straws with the service or delivery of any beverage to patrons on any beach within the city." available at https://www.municode.com/library/fl/miami_beach/codes/code_of_ordinances?nodeId=SPAGEOR_CH46EN_ARTVIEXPOSAUSRE)
- Malibu, CA – In August 2016, the Malibu City Council unanimously voted to direct staff to move forward with developing an ordinance to expand their existing EPS ordinance to address things like unencapsulated foam coolers. (See hearing and council discussion at http://malibu.granicus.com/MediaPlayer.php?view_id=4&clip_id=1245 (item 7A))

Effective non-recyclability

- While EPS foam is technically recyclable, it is still relatively rarely collected in curbside municipal recycling programs. For example, see this Chicago Tribune article regarding lack of recyclability options <http://www.chicagotribune.com/news/local/ct-styrofoam-recycling-centers-met-20160818-story.html>
- Polystyrene foam is barred from some cities' recycling programs because it's difficult to sell, and easily contaminated by other materials in recycling bins, which makes it difficult to sort. Further, food-soiled EPS is typically not accepted by recyclers and is instead treated as waste, and landfilled.¹
- EPA has found that 3.8 percent of polystyrene (includes rigid and expanded polystyrene) is recycled.²
- Another article reports that only 1.3% of all polystyrene discarded in 2013 was recycled, according to the EPA.³

Health Concerns

- Use of polystyrene in any form poses considerable health concerns. The production of styrene, a component of polystyrene, carries occupational safety risks. The International Agency for Research on Cancer determined that styrene is a possible human carcinogen. In 2009 the California Office of Environmental Health Hazard Assessment proposed that styrene be listed as a known human carcinogen. Several epidemiological studies suggest an association between occupational styrene exposure and an increased risk of leukemia and lymphoma.⁴

¹ See, e.g., <http://blog.savesfbay.org/2013/08/foam-industry-spreads-misinformation-lobbies-against-san-jose-ban/>; and <http://www.chicagotribune.com/news/local/ct-styrofoam-recycling-centers-met-20160818-story.html>

² At <https://www.nrdc.org/sites/default/files/consumer-goods-packaging-report.pdf>, p. 15, citing https://archive.epa.gov/epawaste/nonhaz/municipal/web/pdf/2012_msw_dat_tbl_s.pdf, at Table 7.

³ See <http://www.chicagotribune.com/news/local/ct-styrofoam-recycling-centers-met-20160818-story.html>

⁴ See <https://www.nrdc.org/sites/default/files/consumer-goods-packaging-report.pdf>, at p. 15, citing the Agency for toxic Substances and Disease Registry, *Public Health Statement: Styrene*, June 2012, and Clean Water Action, *Health Effects and Regulation of Styrene (CASRN 100- 42-5)*, 2012

Results // Case Studies of Jurisdictions with Bans

- See, e.g., “An Assessment of Policies on Polystyrene Food Ware Bans,” by Linda D. Nguyen (10-1-2012), which highlights experiences of Portland, OR (1990); San Francisco, CA (2007); and Seattle, WA (2009) with their EPS ordinances.⁵
 - According to city staff, San Francisco had little resistance from the community because many food vendors had already switched from EPS.⁶
 - One year after implementation of the San Francisco ordinance that prohibits the use of EPS food ware, San Francisco’s litter audit showed a 36% decrease in EPS litter.⁷
 - San Francisco saw a 41% reduction in litter over the 3 years after the ordinance went into effect, as documented by city-conducted litter audits of city streets and sidewalks.⁸
 - San Francisco conducted an impressive outreach campaign before and after the passage of their ordinance. This included not only letters and notice in popular channels such as newspapers, but also direct contact with all affected establishments. Outreach started three to four months before passage of the ordinance, and included six meetings held at various neighborhoods with the assistance of neighborhood associations.⁹
 - While Portland had not conducted any studies and did not have any statistics at the time of Nguyen’s 2012 study, Portland did report “that a definite change in litter has been noted.”¹⁰
 - Portland’s ordinance shows how businesses can adapt and change behavior; after losing a lawsuit challenging the ordinance, McDonalds stopped using EPS clamshells at its restaurants nationwide.¹¹
 - EPS foam costs cities money. As an example, the pre-ordinance 2008 annual costs of disposable food service items to the city of Seattle for collection, recycling, disposal and litter cleanup was estimated at about \$620,000.¹²

⁵ Available at http://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1265&context=etd_projects

⁶ Id. At 33.

⁷ Id., at p. 7.

⁸ Id., at pp. 27, 33.

⁹ Id., at p. 35.

¹⁰ Id., at 29.

¹¹ Id.

¹² Id., at p. 38-39.