

April 29, 2015

Via E-Mail

Ms. Monet Vela
California Environmental Protection Agency
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, CA 95812-4010

Re: Notice of Intent to List Styrene under Proposition 65

Dear Ms. Vela:

On behalf of the EPS Industry Alliance (EPSIA), Bergeson & Campbell, P.C. submits these comments to the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) regarding its proposal to list styrene as a chemical known to the state to cause cancer for the purposes of Proposition 65 under the authoritative bodies listing mechanism.¹ EPSIA appreciates this opportunity to comment.

These comments support and incorporate by reference the comments submitted by the Styrene Information Research Center (SIRC) setting forth the reasons why there is no basis for OEHHA to list styrene under the authoritative bodies listing mechanism. SIRC's comments emphatically and unequivocally establish that OEHHA has not demonstrated that the criteria for sufficiency of evidence have been met in this instance.

The integrity of the scientific basis upon which OEHHA relies to propose listing styrene is critical to the integrity of the Proposition 65 program. OEHHA bases its notice to list styrene on a June 2011 listing by the National Toxicology Program (NTP) of styrene as "Reasonably Anticipated to be a Human Carcinogen" in the 12th Annual Report on Carcinogens (RoC). NTP's listing is based on its finding that "styrene is reasonably anticipated to be a human carcinogen based on *limited evidence* of carcinogenicity from studies in humans, *sufficient evidence* of carcinogenicity from studies in experimental animals, and *supporting data* on mechanisms of carcinogenesis" (emphasis supplied). As SIRC's comments make clear, this NTP conclusion is inadequate for purposes of meeting the listing criteria under Proposition 65. Proposition 65 requires that there be sufficient evidence in humans, or sufficient evidence in

¹ OEHHA, *Notice of Intent to List: Styrene* (Feb. 27, 2015), available at http://oehha.ca.gov/prop65/CRNR_notices/admin_listing/intent_to_list/noilstyrene2015.html. On March 26, 2015, EPA extended the comment period to April 29, 2015.

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animals, supported by additional evidence demonstrating the relevance of animal data to human carcinogenicity. SIRC's comments make abundantly clear that all the supportive data and evidence demonstrate conclusively that new human studies published since the issuance of the 12th Edition RoC show that the human evidence is inadequate, not limited. Since NTP did not consider scientifically valid data, animal evidence alone is insufficient to support a listing. Additional mode of action data also demonstrate that animal data are not relevant to humans. Accordingly, styrene does not present a human cancer risk at anticipated exposure levels, and OEHHA cannot and should not list styrene under Proposition 65.

EPSIA is the North American trade association representing the expanded polystyrene industry. Our members encompass the entire value chain from resin manufacturers to molders to contractors, installers, and equipment manufacturers.

Polystyrene is a long-chain molecule, or polymer, created by chemically combining monomer styrene to form a new and distinct substance. The polystyrene resin can be expanded, or foamed, by steam and pressure to form rigid board insulation, protective packaging, insulated shipping containers, and components for other products. Expanded polystyrene is about 98% air, which makes it an ideal insulator. The rigid nature of expanded polystyrene also delivers superior cushioning.

Expanded polystyrene is the high efficiency insulation board used to provide the continuous insulation layer inside building walls, ceilings, and below grade that builders need to reduce building energy consumption. Builders rely on it to meet California's ambitious energy efficiency goals. Expanded polystyrene is the lightweight, rigid cushioning behind automobile bumpers allowing cars to be both lighter and safer. It is used in bicycle helmets assuring that they are comfortable to wear and effective in reducing head injuries. It is the insulated container that allows California grapes and produce to reach far flung markets fresh and protected. Expanded polystyrene is stable, recyclable, and has low embodied energy. Not only is it recyclable into other polystyrene products, but some manufacturers have achieved the ultimate sustainability goal by making quality expanded polystyrene from 100% recycled material.

Polystyrene and expanded polystyrene are not styrene. Styrene is a clear liquid that, once processed into polystyrene, will remain a polymer similar to the way an egg, once fried, will not revert to its original form.

From research to sustainability to manufacturing -- and everything in between -- EPSIA is the indispensable resource for the expanded polystyrene industry. The expanded polystyrene industry has invested significant time and resources to ensuring environmental stewardship, sustainability, and recycling opportunities, conducting life cycle analysis of our products, and continuous improvement in manufacturing efficiencies. Environmental efforts of EPSIA members include, but are not limited to, achieving ISO-14000 certification, working through the



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Sustainable Packaging Coalition, and developing a nationwide collection infrastructure of more than 200 collection sites to support recycling efforts.

EPSIA urges OEHHA to review these comments and SIRC's comments, and conclude that it cannot lawfully list styrene under Proposition 65 based on the authoritative bodies mechanism. EPSIA appreciates the opportunity to submit these comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lynn L. Bergeson', is positioned below the text 'Respectfully submitted,'.

Lynn L. Bergeson, Esquire
Bergeson & Campbell, P.C.