



OCT 21 1993

Mr. John D. Michael
President
Fabri-Kal Corporation
Plastics Place
Kalamazoo, Michigan 49001

Dear Mr. Michael:

This responds to your letters dated May 28, and June 9, 1993, your facsimile of October 8, 1993, and our telephone conversation of October 8, 1993, concerning the use of post-consumer recycled polystyrene (crystal and rubber-modified) as the non-food-contact layer of laminate polystyrene to make cold drink cups and their lids, produce trays, and deli food containers and portion cups that are intended to contact food.

You stated that the laminate polystyrene construction will be formed such that the post-consumer polystyrene layer (1) will be separated from food by a virgin layer of polystyrene that is at least one mil thick, (2) will be the non-food-contact layer in the two- or three-layer laminate construction, and (3) will be in contrasting color to the food-contact layer in the two-layer laminate construction, to ensure that only the virgin polystyrene layer will come into contact with food. You further stated that (1) the virgin polystyrene will comply with 21 CFR 177.1640, (2) the post-consumer polystyrene will generally be collected from strict sources to minimize contact with hazardous or non-food-grade material and (3) all pigments used in both the virgin and post-consumer polystyrene will comply with 21 CFR 178.3297. In addition, you stated that the containers will be used to package foods of types I, II, IVB, VI, VIIB, and VIII listed in 21 CFR 176.170(c), Table 1, and that the food will be stored for a maximum of twelve days at room temperatures and below.

Based upon our review of the information you provided, we find that there is little likelihood of unacceptable contaminants in your recycled polystyrene migrating to food. Therefore, your uses of post-consumer recycled polystyrene will not require amendments to the food additive regulations, when collected from the sources described in your letters and used to manufacture produce trays, deli food containers, portion cups, and cold drink cups and their lids.

While the agency encourages the use of control in the collection of products for recycling into food-contact articles, it remains the responsibility of the manufacturer to ensure that the final plastic article is free of possible chemical and microbiological contaminants. Furthermore, if any adjuvants are used in the blending of virgin and

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recycled resin to form the food-contact articles, those adjuvants and their levels must be appropriately regulated for the proposed use. The use of unregulated adjuvants or the use of regulated adjuvants at levels higher than are currently authorized would require further review by FDA.

Although we have concluded that your intended use of recycled polystyrene does not require an amendment to the food additive regulations, you should be aware that we are currently developing a formal policy on the use of post-consumer recycled plastics in contact with food. Thus, the decisions set forth in this letter may need to be modified due to future deliberations on this matter.

If I can assist you further, please let me know.

Sincerely yours,



Eugene C. Coleman
Director
Division of Petition Control
Center for Food Safety
and Applied Nutrition