



CITY OF MILPITAS

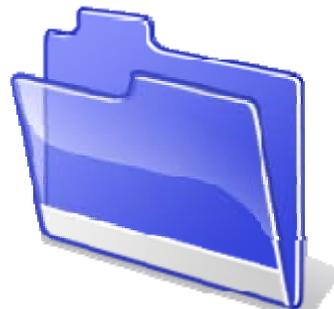
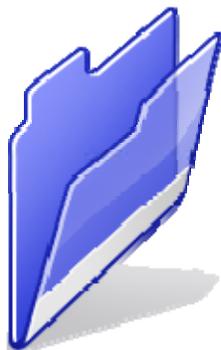
455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, www.ci.milpitas.ca.gov

04/17/2012

Agenda Item No. 2



ATTACHMENTS AND/OR ADDITIONAL MATERIALS RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION





April 14, 2012

Mayor and City Council Members
City of Milpitas
455 East Calaveras Boulevard
Milpitas, California, 95035

DELIVERED VIA EMAIL

Re: 4/17/2012 Council Meeting Item XIV (2): Receive a Report on the Single-use Carryout Bag Study, Direct Participation in an Environmental Impact Report, and Direct Preparation of an Ordinance to Restrict Distribution of Single-use Bags

Dear Honorable Mayor and City Council Members:

The California Restaurant Association is the definitive voice of the food service industry in California and is the oldest restaurant trade association in the nation. On behalf of our restaurant members in the City of Milpitas, we submit this **letter of opposition** regarding a proposed ordinance to ban the use of plastic bags in all retail and food establishments. As providers of prepared food, restaurants take their responsibility to provide food in a safe and unadulterated manner seriously and devote a tremendous amount of effort to ensure food safety. If plastic bags are banned the only bag options left for restaurants are reusable bags or paper bags. These options pose serious public health and safety risks as well as operational challenges for restaurants. **For these reason as well as the reasons explained below, we ask the City of Milpitas to fully exempt restaurants and other food service establishments from this ban.**

Restaurants are generally exempted from bag ordinances due to food safety concerns with using reusable bags for prepared food to-go. Most recently, the City of San Jose and Santa Clara County have exempted restaurants from their ordinances.

- Other California jurisdictions that have passed bag ordinances with an exemption for restaurants include Calabasas, Long Beach, Los Angeles County, City of Los Angeles, Marin County, Oakland, Palo Alto, San Francisco, San Jose, Santa Clara County, and Santa Monica. For example:
- Santa Monica's ordinance provides: "5.45.040 Exemptions (a)(1): Single-use plastic carry out bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of prepared take-out foods

and liquids intended for consumption away from the food provider's premises."¹

- San Jose provided that "Restaurants and food establishments would not be subject to the ban for public health reasons. Reusable bags are considered impractical for these purposes."²
- According to the US Department of Health and Human Services, "Harmful bacteria are the most common cause for food poisoning" or foodborne illness.³ To safeguard against foodborne illness, restaurants must follow strict food safety standards in food handling under Cal Code, the California retail food code. Restaurants are regularly inspected by their county environmental health department under these guidelines.
- Food safety and food borne illness prevention is a top priority for restaurants, but no matter what precautions are taken by the restaurant to prevent cross contamination, it can all be in vain if people use contaminated reusable bags to transport restaurant food.
- People use reusable bags for various purposes, not just to transport food. They use reusable bags to carry dirty clothes, shoes, pet items and any number of personal items. The co-mingling of non-food items with perishable, food items can expose food to germs and bacteria. Additionally, many people do not wash their reusable bags. Bags are often kept in car trunks for convenience; an environment that can be a breeding ground for bacteria.
- Any potential risk of cross contamination is taken very seriously and cause for concern. This risk exists with reusable bags. (See research by University of Arizona and Loma Linda University, Center for Food Industry Excellence at Texas Tech University, and Health Canada).
 - Health Canada warns: "When you are using reusable bags and bins, the biggest food safety concern is cross-contamination. Because these kinds of grocery bags and bins are used frequently, they can pick up bacteria from foods they carry."⁴

In a study by University of Arizona and Loma Linda University, a total of 84 reusable bags were collected from consumers (25 Los Angeles, 25 San Francisco, and 34 from Tucson). 97% of persons interviewed did not clean their reusable

- International Center for Food Industry Excellence at Texas Tech University tested 11 reusable bags – 8 used and 3 new. Half of the used bags indicated coliform contamination, while a quarter of the used bags tested positive for generic E. coli contamination.⁵

¹ City of Santa Monica Bag Ordinance at http://qcode.us/codes/santamonica/view.php?topic=5-5_44-5_45-5_45_040&frames=on

² City of San Jose Bag Ordinance Development, February 2010.

³ US Department of Health and Human Services at www.FoodSafety.org

⁴ Health Canada at <http://www.hc-sc.gc.ca/fn-an/secureit/kitchen-cuisine/reusable-bags-sacs-reutilisable-eng.php> and <http://www.halifax.ca/districts/dist08/documents/BeaconSept09.pdf>.

⁵ Research by the International Center for Food Industry Excellence at Texas University at http://www.wpri.com/dpp/news/12_for_action/reusable-bags-may-carry-contamination

- The use of reusable bags by restaurant patrons increases the owner's/operator's liability because there is a potential for cross-contamination.
- Unlike food purchased at the grocery store, restaurant food is typically not prepackaged or sealed. There can be spills and not all food is completely wrapped up or enclosed in a container (e.g. fries at quick service restaurants).
- Using a new, clean bag is the best way to ensure food is safely transported from the restaurant. Restaurants should have the freedom of choice to determine what type of bag works best to maintain the integrity of their product. Paper bags are not always the most practical choice for restaurants.
- Plastic bags are superior to paper bags in protecting against accidental spills and leaks during transport, whereas the content would just seep through a paper bag. Customers become disgruntled when food from the bag leaks onto their car, carpet, clothes, etc.
- In addition, some types of containers don't fit as well in paper bags. Whereas plastic bags conform to the size of the container, paper bags do not. The bottom of paper bags is generally rectangular-shaped which doesn't work when you have a standard, large square container.
- Restaurants will tightly pack up food in a plastic bag and use the handles to tie the bag so as to prevent the food from moving around and spilling. You can't do this with a paper bag.

Therefore, we urge the City of Milpitas to carefully consider these public health reasons for why restaurants are in a unique situation and exempt restaurants and other food service establishments from the ordinance. Should you have any questions, please contact me at (408) 416-6344 or at jgonzalez@calrest.org.

Sincerely,



Javier González
Director, Local Government Affairs
California Restaurant Association

Cc: Thomas C. William, City Manager
Mary Lavelle, City Clerk
Greg Armendariz, City Engineer & Public Works Director
Kathleen Phalen, Utility Engineer



April 17, 2012

DELIVERED VIA EMAIL

Mayor and City Council Members
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Re: Opposition to the Single-use Carryout Bag Issue

Honorable Mayor and City Council Members:

The Milpitas Chamber of Commerce, representing over 200 member organizations that would be affected by the ban of Single-use Bags, opposes the consideration of an ordinance to ban the distribution of single-use, point-of-purchase plastic bags.

Right now, food preparation businesses are being considered as exempt from this proposed ban. This leaves, grocery stores, retail clothiers, retail auto parts, doctors, dentists, optometrists, veterinarians, travel agencies, sports and workout facilities, realtors, printing companies, office suppliers, locksmiths, laundry services, cleaners, hotels/motels, computer retailers, beauty salons/suppliers, and anyone who uses plastic bag door hangers.

Plastic has been controversial from an environmentalists point of view since its inception. Over the years, plastic, in its various forms--plastic cans, bottles, bags, storage containers, and car bumpers, has been a controversial subject. Instead of banning the more rigid plastics, regulations were put into place regarding their recycling capabilities. Why not "spend" our efforts toward the same goal for plastic bags.

If landfill concerns and litter are the problem, then enforce the ordinances already in place for those purposes. An additional unenforceable ordinance serves no purpose except for two reasons. One--The City of Milpitas will receive a trash-load reduction credit from the State. Does this mean additional funds back to the city? If so, this is very attractive to an already burdened budget. And, two--the City gets to say "me too" to the other surrounding cities.

An ordinance to ban is an easy-out for cities, with punishment meted out to its business community. Milpitas prides itself on being a business-friendly city. The Milpitas Chamber of Commerce believes that the City of Milpitas, along with its citizens and businesses, can set an example regarding this issue, with leadership, and not a "me too" attitude. Let's lead the charge for recycling this widely-used plastic instead of punishing our already burdened businesses.

Respectfully,

Carol Kassab, CEO
Milpitas Chamber of Commerce

828 N. Hillview Drive • Milpitas, CA 95035 • (408) 262-2613 • FAX (408) 262-2823
Website: www.milpitaschamber.com • Email: info@milpitaschamber.com



CITY OF MILPITAS

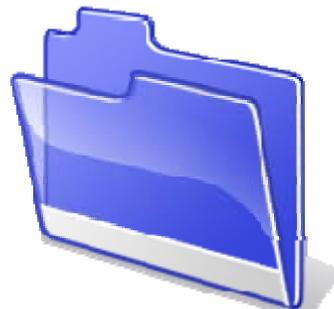
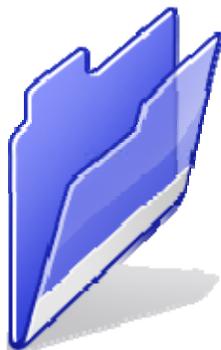
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04/17/2012

Agenda Item No. 3



ATTACHMENTS AND/OR ADDITIONAL MATERIALS RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION





April 14, 2012

Honorable Mayor and City Council Members
City of Milpitas
455 East Calaveras Boulevard
Milpitas, California, 95035

DELIVERED VIA EMAIL

Re: 4/17/2012 Council Meeting Item XIV (3): Receive a Report on the Expanded Polystyrene Food Service Take-out Containers Study, Approve Support Letter for Senate Bill 568, and Direct Participation in Regional Efforts to Ban Expanded Polystyrene Food Service Take-out Containers

Dear Honorable Mayor and City Council Members:

The California Restaurant Association is the definitive voice of the food service industry in California and is the oldest restaurant trade association in the nation. On behalf of our restaurant members in Milpitas, we submit this **letter of opposition expressing our concern with a ban on foam food packaging at eating establishments.**

First of all, we would like to work collaboratively with the city to address litter and trash by exploring fiscally and environmentally responsible solutions, none of which is accomplished by a ban. We urge the council to take into account the challenges eating establishments would face such as higher cost and product performance issues with alternative products.

With food prices on the rise and new government mandates (e.g. menu labeling, health care, increases in local and state government fees, etc.) the cost of doing business is higher than ever. At a time of so much economic uncertainty, we do not believe it is appropriate to impose greater cost burdens on the foodservice industry. Restaurants operate under tighter profit margins than many other businesses – roughly 4 to 6 percent before taxes, according to the National Restaurant Association's Restaurant Industry Operations Report. Restaurants, caterers, delis, and other food providers will see their operating costs rise, as polystyrene containers are 2-3 times more affordable than replacement products.

Furthermore, a ban on polystyrene food products would force restaurants to purchase alternative products that may not perform as well and cost significantly more. Restaurants should have the

freedom of choice to use food service packaging that best meets their operational needs. Polystyrene packaging is an economical option that performs extremely well in keeping cold foods cold and warm foods warm. Polystyrene products are also durable and well insulated and thus hold up well to various types of food to help prevent accidental leaks and spills.

For all these reasons, we urge the City Council that a ban should not be the only option on the table. A ban does not truly address litter and trash issues. By switching from one product to another, the composition of the trash and litter would change, but the problem does not go away. For example, the City of San Francisco conducted a litter audit following the implementation of its polystyrene ban ordinance. The audit found that a 41% reduction in polystyrene was offset by an increase of the same percentage of coated paperboard on an item-by-item basis. Therefore, we believe exploring other options like foam recycling that would capture not just food packaging, but all foam is a sensible approach that actually results in waste reduction.

Should you have any questions, please contact me at (408) 416-6344 or jgonzalez@calrest.org.

Sincerely,

A handwritten signature in blue ink that reads "Javier González". The signature is written in a cursive, flowing style.

Javier González
Director, Local Government Affairs
California Restaurant Association

Cc: Thomas C. William, City Manager
Mary Lavelle, City Clerk
Greg Armendariz, City Engineer & Public Works Director
Kathleen Phalen, Utility Engineer



CITY OF MILPITAS

OFFICE OF MAYOR JOSE ESTEVES

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
PHONE: 408-586-3029, FAX: 408-586-3056, www.ci.milpitas.ca.gov

April 17, 2012

Honorable Alan Lowenthal
State Capitol, Room 2032
Sacramento, CA 95814
(916) 327-9113

RE: SB 568 (LOWENTHAL) POLYSTYRENE FOOD CONTAINERS – SUPPORT

Dear Honorable Alan Lowenthal:

On behalf of the City of Milpitas, I ask that you support passage of Senate Bill 568. SB 568 will prohibit distribution of expanded polystyrene (EPS, also known as Styrofoam™) carryout food containers by food vendors for prepared foods. These containers, designed for single use by consumers, impact the environment in long-term, harmful and expensive ways when improperly discarded as litter. EPS containers are light weight and easily become wind borne and water borne litter. They migrate into local waterways and the South San Francisco Bay. The California Coastal Commission reports that EPS is the second most abundant form of debris on California beaches. Currently, the technology to recycling used EPS containers is not viable due to the containers' contamination with food and incompatibility with mixed collection recycling systems; such is the case with the City of Milpitas recycling programs.

Passage of this bill will assist California jurisdictions with trash abatement provisions of the National Pollutant Discharge Elimination System (NPDES) stormwater permits. The Bay Area Municipal Regional Permit requires elimination of litter in stormwater conveyance systems by 2022. To date, forty-nine California jurisdictions have banned EPS carryout food containers within their jurisdictions, but passage of SB 568 will create a State-wide uniform policy to control this product.

Please vote YES on SB 568 and help California reduce the use of this product.

Sincerely,

Jose S. Esteves
Mayor

C: Honorable Ellen M. Corbett
Honorable Elaine K. Alquist



13407 Yorba Ave | Chino, CA, | 91710
Office 909-627-8081 | Fax 909-627-8150

April 12, 2012

Dear Honorable Members of the Milpitas City Council,

My business, Natural Environmental Protection Company (NEPCO), is a company that uses “Styrofoam” to manufacture high quality picture frames at our facility in Chino, CA. Since 2006, we have increased our size from four employees to thirty five. We have also tripled the size of our building and as a result, we are currently running five manufacturing lines 24 hours, 7 days a week. Since post-consumer foam is the key ingredient for our picture frames, NEPCO is in critical need of packaging and food service foam (recyclable condition) from California municipalities and businesses. We need your foam to keep up with our growth which is creating green jobs for Californians!

We currently use both types of foam from material recovery facilities, businesses, and the public. Using recycled foam not only enables us to do our part to improve the environment but it also helps us keep our manufacturing costs down. Please contact me at the listed number above if you have an interest in recycling your foam with our company.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tommy Kim', is written over a light blue horizontal line.

Tommy Kim

Director

The Honorable Jose Esteves
Mayor, City of Milpitas
455 East Calaveras Boulevard
Milpitas, California 95035

April 16, 2012

Subject: Item XIV.3: Polystyrene Food service

Dear Mayor Esteves:

The Plastics Foodservice Packaging Group (PFPG), of the American Chemistry Council (ACC) must express our opposition to the staff recommendation for the City to participate in a regional effort to restrict polystyrene food service products.

Though we appreciate and support the intent by the City of Milpitas to reduce litter and disposal, we believe the better policy approach would be to establish a clear recycling and composting standard by which **ALL** food service packaging must meet. Please consider:

- The staff recommendation assumes alternatives to polystyrene foam are better for the environment. Several independent studies have demonstrated that banning polystyrene foam containers could have significant negative environmental impacts because ***alternatives such as coated bleached paperboard and “compostables” generate significantly more greenhouse gas emissions, use more energy and generate more solid waste.***^{1, 2, 3}
- A 2008 litter study conducted for the City of San Francisco found a 36% reduction in polystyrene litter was offset by an increase of the same percentage of coated paperboard on an item by item basis.
- To date three local cities – San Jose, Santa Clara, and Morgan Hill – formally discussed banning polystyrene containers but chose not to advance local citywide ordinances. In addition, a bill before the California Legislature (SB 568) that would ban polystyrene containers has been on the Assembly’s Inactive File since last year.
- Despite claims to the contrary, and even with a co-op arrangement, compostable alternatives cost on average two times more than polystyrene foam foodservice. This impact would be more severe on small restaurants and vendors,⁴ and potentially devastating in the current economic climate.
- As you know, city staff contracted with Cascadia Consulting Group to study the issue in Milpitas. We believe the final report provides little value and we have listed many problems with it in the attachment.

We respectfully encourage the Milpitas City Council to work with industry, restaurants, recyclers and other stakeholders to develop a takeout food packaging policy that sets a recycling and composting benchmark by which **all** material types must meet. Thank you for taking the time to consider our views. If you have any questions or comments, please do not hesitate to contact us.

Regards,



Ryan Kenny
Manager, State Affairs
American Chemistry Council

cc: Members, Milpitas City Council

¹ Final Peer-Reviewed Report: Life Cycle Inventory of Polystyrene Foam, Bleached Paperboard and Corrugated Paper Foodservice Products, Franklin Associates, Ltd., prepared for Polystyrene Packaging Council, March 2006, <http://www.plasticsfoodservicepackaging.org>

² Paper or Styrofoam, A Review of the Environmental Effects of Disposable Cups, University of California at San Diego (UCSD), Dec 2006

³ Life Cycle Inventory of Foam and Coated Paperboard Plates, Peer-Reviewed Final Report, prepared for Pactiv Corporation, Franklin Associates, Ltd., May 2008

⁴ Polystyrene & Replacement Costs, MB Public Affairs, prepared for Polystyrene Packaging Council, March 2, 2006

(Attachment)

Concerns With *Cascadia Consulting Group* April 26, 2011 Report Titled “Expanded Polystyrene Food Service Take-Out Container Study”

Milpitas city staff contracted with Cascadia Consulting Group to study the polystyrene food service issue in Milpitas. We believe the final report provides little value because scientific methodology was not used and therefore the conclusions cannot be inferred over the entire population. We have listed many fundamental problems here:

- The report states “nine specific research tasks” were undertaken. A list of jurisdictions which have adopted polystyrene ban ordinances was provided but nowhere in the report was an analysis of whether these bans are working and have met respective predetermined policy goals.
- The report states, “Cities interviewed...noticed that a significantly larger number of businesses switched to alternatives to PS...” Nowhere in the report does Cascadia mention or provide an analysis of the environmental impacts of these alternative products, i.e. disposal and life cycle analysis.
- Stated in Appendix 6.1, “Compostable alternatives, if littered, will eventually degrade completely...” Compostable products do not naturally degrade in the environment.
- The report states (page 7), “Alternative products are becoming more available and prices are gradually lowering in San Francisco (City of Monterey).” No supporting evidence is provided despite the report including price comparison data to the contrary in Appendix 2.1 and on page 10.
- The report states (page 21), “To make recyclable and compostable products more cost comparable to polystyrene products, the City could...create a co-op from which businesses can buy recyclable and compostable products in bulk.” No evidence was provided demonstrating a co-op arrangement would make these products “more cost comparable to polystyrene products.”
- The report states (page 7), “Affected businesses have high compliance rates of 94% in San Francisco (SF Environment) and about 95% in Palo Alto,” yet the claims were not supported with the methodology for how these figures were determined.
- The report states (page 7), “Polystyrene is commonly found in storm drains and catch basins, and it is an abundant type of marine debris (City of Palo Alto Public Works.)” The report does not provide data on how much is non-foodservice and if this is the majority of material found.
- The report states (page 15), “The ban should initially target expanded polystyrene for which readily available and acceptable alternatives exist.” The report mentions an effective infrastructure is needed to effectively dispose of alternatives but does not mention why they are advocating for a ban when the infrastructure for some of these products is not available. It also is not clear why after recommending a polystyrene ban they also recommend “other foodservice ware items that do not have compostable or recyclable alternatives (be) added to the list of products receiving temporary exemptions (page 15.)” Why would there be exemptions if these products could not be effectively disposed?
- The report advocates for a public outreach campaign (page 30) that “would help the City of Milpitas move forward with any program selected to manage polystyrene” yet did not provide any potential cost information. How can Cascadia make a recommendation without supporting it with expected municipal costs?

Concerns with Research Methods of Both Public Opinion Polls

- The selection of restaurants for quantitative survey sampling was non-random and thus the results cannot be defended as statistically representative of all Milpitas restaurants. Surveys without random sampling and thus their conclusions cannot be inferred over the entire restaurant population. Also, the study incorporated restrictions that further contributed to its lack of random sampling:
 - ✓ The requirement that not more than one location per chain brand name is interviewed (different franchisee owners may have differing views.)

- ✓ Surveying only businesses on main roads to the exclusion of all other restaurants.
 - ✓ The ability and willingness to quickly deviate from the plan to interview a businesses if spotted from the main roads.
 - ✓ Deriving a list by sorting only by category in the White Pages rather than randomly from a universe of all restaurant users of polystyrene foodservice.
- The questions in the quantitative survey used to interview restaurant managers were leading and biased the sample taken therefore invalidating the data collected. The question “Do you think polystyrene foam litters the environment?” is a classic example how the question poisoned the response. And the interviewee is led with a concept and then, according to existing literature, perceives to be judged by the interviewer whether the answer is acceptable.

After the interviewee is told polystyrene litters the environment, they are then asked if they support a ban of the material and “how much of an increase in your purchasing costs per month would you be able to tolerate?” These are asked after being told “polystyrene litters the environment” and the interviewee must quickly decide their tolerance versus looking bad to the interviewer for not absorbing the costs instead of harming the environment. It is clear by the wording in the questions that the interviewer favors a ban and feels polystyrene harms the environment.

- The key questions for the resident survey were biased, leading, and double-barreled and therefore likely invalidated the data and conclusions derived from the surveys. For example, Question No. 2 – “Do you think that single use bags and polystyrene foam take-out containers litter our creeks, bay, and the oceans?” - is double-barreled because it includes both “single use bags” and “polystyrene foam take-out containers” in the same question. Respondents might feel inclined to address just one of the products but are forced to on two. It is also leading and reveals bias by linking both products to “litter in our creeks, the bay, and the oceans” and in Question No. 3 to “harming wildlife and the environment.” The survey continues by then asking if the city should ban both products after already providing detrimental information on both and leading the interviewee to believe the interviewer views these products negatively. Similar design problems are found at least in questions 6 and 11.





April 17, 2012

The Honorable Jose Esteves
Mayor, City of Milpitas
455 East Calaveras Boulevard
Milpitas, California 95035

Dear Mayor Jose Esteves:

Pactiv is a leading foodservice packaging supplier with a substantial manufacturing and economic presence in California for over 40 years. Pactiv is very concerned with any legislation that would ban some of the very products that we produce, sell and distribute in California. SB568 is a good example of legislation that can not get enough support to pass.

Pactiv manufactures a variety of foodservice packaging containers from a number of different materials, including plastic(s), aluminum, molded fiber, and paperboard for use in the consumer, food service, and other markets. We have six manufacturing facilities and one distribution center in California which employ more than 1,100 workers. We have already closed two plants last year in California. Our employee count for 2010 was well over 1400, but with the plant closures we are dropping quickly.

We are unfortunately proving what our company has said for the last five years, that the Pactiv facilities in California which manufacture products out of the materials that would be banned, will be forced to shut down production lines or shut down completely - eliminating jobs and the tax revenue the state receives as a result of these businesses. These California facilities are closing because our customers are being forced to use products other than foam polystyrene, without any requirement that the alternative products that will replace polystyrene will have a better or worse effect on the environment.

Unfortunately there is a myth that if a ban on polystyrene occurs, then the plants at which the products are made now can be re-tooled and a new material and "green" products will be produced in that facility. **This is simply not true.** An effort to completely retool a manufacturing facility takes millions in capitol and at this point our economy is struggling and it would be almost impossible to change the plants over to another material type.

A ban on polystyrene packaging will result in MORE job losses in California with accompanying adverse economic impact. Job losses in California will most certainly result if foam bans are enacted. The job losses will impact real people, real Californians. Packaging manufacturers have been operating in California and investing significant capital in this business for 40-50 years. If a state wide ban on polystyrene had been implemented in 2011, the potential impact to California would have included:

- ***Job loss impact = (670 jobs) \$21,000,000 wage and benefit loss by Pactiv employment***
- ***"Ripple" effect to California suppliers \$70,000,000***
- ***State General Fund - Tax loss = \$600K***
- ***Estimated annual cost impacts for selected state agencies = \$760,000 (cost to replace polystyrene foodservice packaging with alternatives)***



Pactiv Corporation enthusiastically supports the need to substantially reduce, and preferably eliminate, the amount of litter that reaches our oceans from land-based sources. As a major foodservice packaging manufacturer, we believe that we can be a part of the solution and an effective partner in working together to address the issue. Our employees have taken their own time to volunteer for litter clean ups hours from our plant locations. However, we do not believe that banning one type of litter over another type will accomplish eliminating marine debris or stopping people from littering the product that is NOT banned.

The notion that justification exists to single out one form of potential litter for prohibition just does not make sense when it is known that the marine debris encompasses materials differing in constituents and composition. A ban on polystyrene food packaging products implies that such products will be replaced with alternative, disposable products, which inevitably will meet the same fate; i.e., they will become a part of the litter stream and that this alternative litter will be benign to the marine environment. Any litter that reaches the ocean is problematic, each bringing with it an environmental burden for the aquatic ecosystem to deal with.

We believe that litter is litter and that replacing one form of litter with another does not solve the ocean debris problem. The 2008 audit of San Francisco litter revealed a 36% reduction in polystyrene litter following a ban on polystyrene products in 2007. **However, the same study showed the same percentage increase in the substituted polycoated paperboard component of litter in San Francisco.**

A number of good solutions to this problem have been repeatedly recommended and are easily implemented without requiring a ban on polystyrene foodservice packaging products. There are alternatives to the proposed legislative actions that if implemented will not result in socio-economic pain and collateral job loss.

I would be happy to answer any questions you may have.

Sincerely,

Mark Spencer
Business Manager, Emerging Materials and Sustainability
Pactiv Corporation
1900 West Field Court
Lake Forest, IL 60045
847-482-3217

cc: Honorable Members, Milpitas City Council



April 17, 2012

DELIVERED VIA EMAIL

Mayor and City Council Members
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Re: Opposition to the support of SB 568 and Ban on Polystyrene Food Service Take-out Containers

Honorable Mayor and City Council Members:

The Milpitas Chamber of Commerce, representing over 75 member organizations that would be affected by SB 568 and the ban of Expanded Polystyrene Food Service Take-out Containers, opposes the consideration of a ban on these containers.

Food service providers are not only restaurants, but also businesses that offer prepared food as a part of their services, such as golf courses, grocery stores, sports facilities, caterers, hotels/motels, fast food stores, and coffee and tea providers. All have concerns regarding the ban of polystyrene. And take-out containers are not only for just “taking out”, but also for those who request to take home uneaten food from their dining experience.

The food service providers interviewed sited a 92% increase in costs for the alternative containers currently being offered. Some were reluctant to pass this additional cost to the consumer, because their clientele has already indicated that food prices are already too high, and they fear that they would lose business because of any additional price increases. Some indicated that they would have no choice but to pass this additional cost to the consumer. Fear of losing clientele is a concern of this group as well, plus the frustration of additional costs passed to consumers for unnecessary government intervention.

If landfill concerns and litter are the problem, then enforce the laws and ordinances already in place for those purposes. An additional unenforceable law serves no purpose.

We would encourage the City of Milpitas to participate in regional efforts to develop reasonable alternatives for this Polystyrene issue. Take a leadership role in developing a recycling plan for this product. We already have the start of recycling this product here in Milpitas. Capitalize on our leadership in this area, and the fact that we have a capable recycling plant right here in our City.

Respectfully,

Carol Kassab, CEO
Milpitas Chamber of Commerce