EXHIBIT A

COUNTY OF SAN MATEO, PLANNING AND BUILDING DEPARTMENT

NOTICE OF INTENT TO ADOPT
NEGATIVE DECLARATION

A notice, pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et seq.), that the following project: *Ordinance Prohibiting Food Vendors From Using Polystyrene-Based Disposable Food Containers*, when adopted and implemented, will not have a significant impact on the environment.

FILE NO.: PLN 2010-00227

APPLICANT: San Mateo County Environmental Health Division

LOCATION: This document assumes that the prohibition would be effective Countywide.

PROJECT DESCRIPTION

It is the County's intent to adopt an ordinance (see attached exhibit) restricting the use of Polystyrene-based disposable food containers by retail food vendors operating in the unincorporated area of the County. Polystyrene is a petroleum-based, lightweight plastic material commonly used as a single-use food service ware by retail food vendors. This restriction would be applicable to all such vendors and operations within unincorporated San Mateo County. San Mateo County is bordered to the north by San Francisco City/County, to the south by Santa Clara County, to the west by the Pacific Ocean and to the east by San Francisco Bay. San Mateo County has a population (estimated as of 2009) of 750,436 residents (of which unincorporated areas have 66,415 residents), and is comprised of 20 incorporated cities and a remaining unincorporated area.

Polystyrene, often referred to by the trademark "Styrofoam," has also become a problematic environmental pollutant given its non-biodegradable, and nearly non-reusable nature. Within San Mateo County, there are (as counted and tracked by the County Environmental Health Division) 2,696 food vendor businesses (from fast-food to full seating restaurants and markets that sell food within the entire County area; not just unincorporated areas). It is estimated that such businesses consume 351,500 units of polystyrene-based foodware containers (i.e., cups, clamshells, plates, etc.). Of these, the smaller restaurants tend to use disposable foodware exclusively, whereas the larger restaurants typically use disposable foodware for take-away orders.

Such non-biodegradable containers constitute a substantial portion of the litter within the County, in parks and public places and along roads, highways and in waterways and the ocean. The Monterey Bay National Marine Sanctuary (MBNMS), which extends to include the entire San Mateo County coastline, indicates that "foamed polystyrene is of a particular concern because it is light, it floats, and is highly visible... Polystyrene foam pieces, which look like food to many species, is frequently ingested by wildlife and results in choking, reduced appetite, reduced nutrient absorption, and starvation." The MBNMS has identified over 200 species of plants and animals that are considered "special status species" occurring in Sanctuary waters. According to a study implemented by the California Coastal Commission and the Algalita

Research Foundation, 60 to 80 percent of all marine debris and 90 percent of floating debris is plastic material which includes polystyrene foam. Because it is not biodegradable, polystyrene packaging constitutes a large portion of accumulated litter.

Alternative and effective ways to reduce the negative environmental impacts of such containers include reusing or recycling food service ware and using compostable materials from renewable sources such as paper fiber, cardboard, corn or potato starch. Up to a one-year exemption to the proposed restriction may be granted to any vendor who can demonstrate a hardship from the strict application of the restriction.

This proposed project is aimed at reducing solid waste and decreasing litter throughout the County by regulating and limiting the use of polystyrene foam food packaging by food providers. The project does not propose any directly associated land use activities or actions.

This proposed project is consistent with the County's land use policies and will not conflict with any other applicable land use plan, policy, or regulation. This proposed project will not conflict with any applicable habitat conservation or natural community conservation plans. In some instances, this proposed project may improve habitat/natural community conservation efforts by reducing the amount of litter generated by polystyrene foam food packaging. The use of non-polystyrene foam over polystyrene foam food packaging does not involve land use considerations or affect the planning/zoning process.

FINDINGS AND BASIS FOR A NEGATIVE DECLARATION

The Current Planning Section has reviewed the initial study for the project and, based upon substantial evidence in the record, finds that:

1. The project will not adversely affect water or air quality or increase noise levels substantially.

2. The project will not have adverse impacts on the flora or fauna of the area.

3. The project will not degrade the aesthetic quality of the area.

4. The project will not have adverse impacts on traffic or land use.

5. In addition, the project will not:

    a. Create impacts which have the potential to degrade the quality of the environment.

    b. Create impacts which achieve short-term to the disadvantage of long-term environmental goals.

    c. Create impacts for a project which are individually limited, but cumulatively considerable.

    d. Create environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

The County of San Mateo has, therefore, determined that the environmental impact of the project is insignificant.

MITIGATION MEASURES included in the project to avoid potentially significant effects:

None.

RESPONSIBLE AGENCY CONSULTATION

San Mateo County Environmental Health Division

INITIAL STUDY

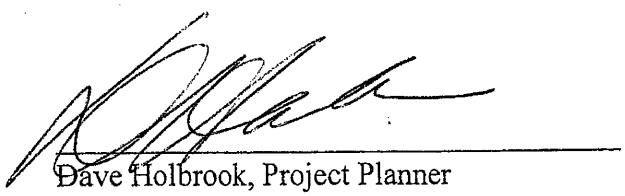
The San Mateo County Current Planning Section has reviewed the Environmental Evaluation of this project and has found that the probable environmental impacts are insignificant. A copy of the initial study is attached.

REVIEW PERIOD: November 29, 2010 to December 20, 2010

All comments regarding the correctness, completeness, or adequacy of this Negative Declaration must be received by the County Planning and Building Department, 455 County Center, Second Floor, Redwood City, no later than **5:00 p.m., December 20, 2010.**

CONTACT PERSON

Dave Holbrook
Project Planner, 650/363-1837



Dave Holbrook, Project Planner

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County of San Mateo
Planning and Building Department

INITIAL STUDY
ENVIRONMENTAL EVALUATION CHECKLIST
(To Be Completed By Current Planning Section)

I. BACKGROUND

Project Title: Ordinance Prohibiting Food Vendors From Using Polystyrene-Based Disposable Food Containers

File No.: PLN 2010-00227

Project Location: This document assumes that the prohibition would be effective Countywide.

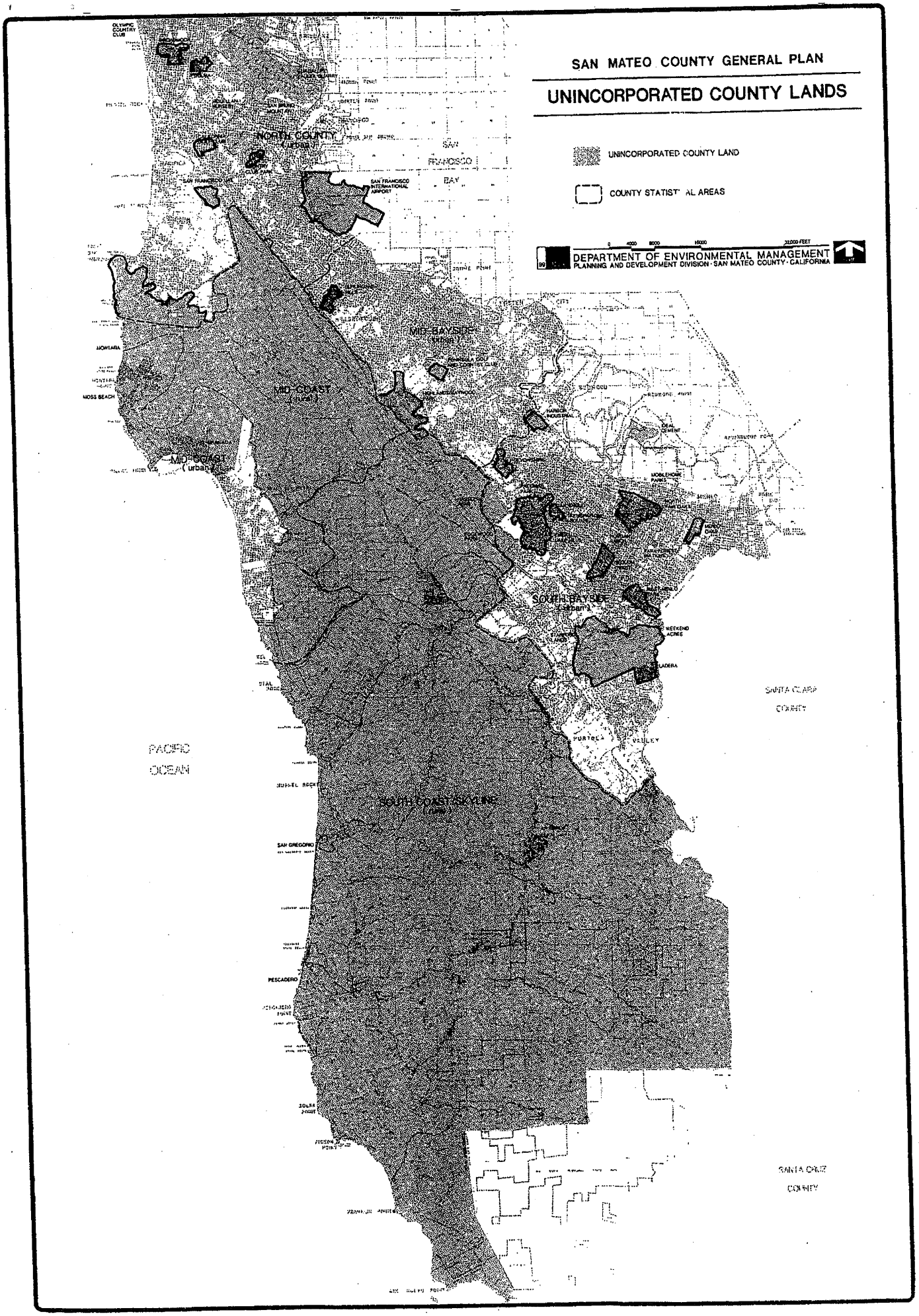
Applicant: San Mateo County Environmental Health Division

Date Environmental Information Form Submitted: July 19, 2010

PROJECT DESCRIPTION

It is the County's intent to adopt an ordinance (see attached exhibit) restricting the use of Polystyrene-based disposable food containers by retail food vendors operating in the unincorporated area of the County. Polystyrene is a petroleum-based, lightweight plastic material commonly used as a single-use food service ware by retail food vendors. This restriction would be applicable to all such vendors and operations within unincorporated San Mateo County. San Mateo County is bordered to the north by San Francisco City/County, to the south by Santa Clara County, to the west by the Pacific Ocean and to the east by San Francisco Bay. San Mateo County has a population (estimated as of 2009) of 750,436 residents (of which unincorporated areas have 66,415 residents), and is comprised of 20 incorporated cities and a remaining unincorporated area.

Polystyrene, often referred to by the trademark "Styrofoam," has also become a problematic environmental pollutant given its non-biodegradable, and nearly non-reusable nature. Within San Mateo County, there are (as counted and tracked by the County Environmental Health Division) 2,696 food vendor businesses (from fast-food to full seating restaurants and markets that sell food within the entire County area; not just unincorporated areas). It is estimated that such businesses consume 351,500 units of polystyrene-based foodware containers (i.e., cups, clamshells, plates, etc.). Of these, the smaller restaurants tend to use disposable foodware exclusively, whereas the larger restaurants typically use disposable foodware for take-away orders.


SAN MATEO COUNTY GENERAL PLAN
UNINCORPORATED COUNTY LANDS
UNINCORPORATED COUNTY LAND
COUNTY STATIST' AL AREAS
0 4000 8000 16000 24,000 FEET
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
PLANNING AND DEVELOPMENT DIVISION · SAN MATEO COUNTY · CALIFORNIA
NORTH COUNTY
MID-BAYSIDE
MID-COAST
MID-COAST
SOUTH BAYSIDE
SOUTH COAST/SKYLINE
SAN FRANCISCO BAY
PACIFIC OCEAN
SANTA CLARA COUNTY
SANTA CRUZ COUNTY

II. ENVIRONMENTAL ANALYSIS

Any controversial answers or answers needing clarification are explained on an attached sheet. For source, refer to pages 11 and 12.

	IMPACT					
		YES				
	NO	Not Significant	Significant Unless Mitigated	Significant	Cumulative	SOURCE
1. LAND SUITABILITY AND GEOLOGY Will (or could) this project:						
a. Involve a unique landform or biological area, such as beaches, sand dunes, marshes, tidelands, or San Francisco Bay?	X					B,F,O
b. Involve construction on slope of 15% or greater?	X					E,I
c. Be located in an area of soil instability (subsidence, landslide or severe erosion)?	X					Bc,D
d. Be located on, or adjacent to a known earthquake fault?	X					Bc,D
e. Involve Class I or Class II Agriculture Soils and Class III Soils rated good or very good for artichokes or Brussels sprouts?	X					M
f. Cause erosion or siltation?	X					M,I
g. Result in damage to soil capability or loss of agricultural land?	X					A,M
h. Be located within a flood hazard area?	X					G
i. Be located in an area where a high water table may adversely affect land use?	X					D
j. Affect a natural drainage channel or streambed, or watercourse?	X					E

	IMPACT					
		YES				
	NO	Not Significant	Significant Unless Mitigated	Significant	Cumulative	SOURCE
2. VEGETATION AND WILDLIFE Will (or could) this project:						
a. Affect federal or state listed rare or endangered species of plant life in the project area?	X					F
b. Involve cutting of heritage or significant trees as defined in the County Heritage Tree and Significant Tree Ordinance?	X					I,A
c. Be adjacent to or include a habitat food source, water source, nesting place or breeding place for a federal or state listed rare or endangered wildlife species?	X					F
d. Significantly affect fish, wildlife, reptiles, or plant life?	X					I
e. Be located inside or within 200 feet of a marine or wildlife reserve?	X					E,F,O
f. Infringe on any sensitive habitats?	X					F
g. Involve clearing land that is 5,000 sq. ft. or greater (1,000 sq. ft. within a County Scenic Corridor), that has slopes greater than 20% or that is in a sensitive habitat or buffer zone?	X					I,F,Bb
3. PHYSICAL RESOURCES Will (or could) this project:						
a. Result in the removal of a natural resource for commercial purposes (including rock, sand, gravel, oil, trees, minerals or topsoil)?	X					I

	IMPACT					
		YES				
	NO	Not Significant	Significant Unless Mitigated	Significant	Cumulative	SOURCE
b. Involve grading in excess of 150 cubic yards?	X					I
c. Involve lands currently protected under the Williamson Act (agricultural preserve) or an Open Space Easement?	X					I
d. Affect any existing or potential agricultural uses?	X					A,K,M
4. AIR QUALITY, WATER QUALITY, SONIC						
Will (or could) this project:						
a. Generate pollutants (hydrocarbon, thermal odor, dust or smoke particulates, radiation, etc.) that will violate existing standards of air quality on-site or in the surrounding area?		X				I,N,R
b. Involve the burning of any material, including brush, trees and construction materials?	X					I
c. Be expected to result in the generation of noise levels in excess of those currently existing in the area, after construction?	X					Ba,I
d. Involve the application, use or disposal of potentially hazardous materials, including pesticides, herbicides, other toxic substances, or radioactive material?	X					I
e. Be subject to noise levels in excess of levels determined appropriate according to the County Noise Ordinance or other standard?	X					A,Ba,Bc
f. Generate noise levels in excess of levels determined appropriate according to the County Noise Ordinance standard?	X					I

	IMPACT					
		YES				
	NO	Not Significant	Significant Unless Mitigated	Significant	Cumulative	SOURCE
g. Generate polluted or increased surface water runoff or affect groundwater resources?	X					I
h. Require installation of a septic tank/leachfield sewage disposal system or require hookup to an existing collection system which is at or over capacity?	X					S
5. TRANSPORTATION Will (or could) this project:						
a. Affect access to commercial establishments, schools, parks, etc.?	X					A,I
b. Cause noticeable increase in pedestrian traffic or a change in pedestrian patterns?	X					A,I
c. Result in noticeable changes in vehicular traffic patterns or volumes (including bicycles)?	X					I
d. Involve the use of off-road vehicles of any kind (such as trail bikes)?	X					I
e. Result in or increase traffic hazards?	X					S
f. Provide for alternative transportation amenities such as bike racks?	X					I
g. Generate traffic which will adversely affect the traffic carrying capacity of any roadway?	X					S

	IMPACT					
		YES				
	NO	Not Significant	Significant Unless Mitigated	Significant	Cumulative	SOURCE
6. LAND USE AND GENERAL PLANS Will (or could) this project:						
a. Result in the congregating of more than 50 people on a regular basis?	X					I
b. Result in the introduction of activities not currently found within the community?	X					I
c. Employ equipment which could interfere with existing communication and/or defense systems?	X					I
d. Result in any changes in land use, either on or off the project site?	X					I
e. Serve to encourage off-site development of presently undeveloped areas or increase development intensity of already developed areas (examples include the introduction of new or expanded public utilities, new industry, commercial facilities or recreation activities)?	X					I,Q,S
f. Adversely affect the capacity of any public facilities (streets, highways, freeways, public transit, schools, parks, police, fire, hospitals), public utilities (electrical, water and gas supply lines, sewage and storm drain discharge lines, sanitary landfills) or public works serving the site?	X					I,S
g. Generate any demands that will cause a public facility or utility to reach or exceed its capacity?	X					I,S
h. Be adjacent to or within 500 feet of an existing or planned public facility?	X					A

	IMPACT					
		YES				
	NO	Not Significant	Significant Unless Mitigated	Significant	Cumulative	SOURCE
i. Create significant amounts of solid waste or litter?	X					I
j. Substantially increase fossil fuel consumption (electricity, oil, natural gas, coal, etc.)?	X					I
k. Require an amendment to or exception from adopted general plans, specific plans, or community policies or goals?	X					B
l. Involve a change of zoning?	X					C
m. Require the relocation of people or businesses?	X					I
n. Reduce the supply of low-income housing?	X					I
o. Result in possible interference with an emergency response plan or emergency evacuation plan?	X					S
p. Result in creation of or exposure to a potential health hazard?	X					S
7. **AESTHETIC, CULTURAL AND HISTORIC** Will (or could) this project:						
a. Be adjacent to a designated Scenic Highway or within a State or County Scenic Corridor?	X					A,Bb
b. Obstruct scenic views from existing residential areas, public lands, public water body, or roads?	X					A,I
c. Involve the construction of buildings or structures in excess of three stories or 36 feet in height?	X					I

	IMPACT					
		YES				
	NO	Not Significant	Significant Unless Mitigated	Significant	Cumulative	SOURCE
d. Directly or indirectly affect historical or archaeological resources on or near the site?	X					H
e. Visually intrude into an area having natural scenic qualities?	X					A,I

III. **RESPONSIBLE AGENCIES.** Check what agency has permit authority or other approval for the project.

AGENCY	YES	NO	TYPE OF APPROVAL
U.S. Army Corps of Engineers (CE)		X	
State Water Resources Control Board		X	
Regional Water Quality Control Board		X	
State Department of Public Health		X	
San Francisco Bay Conservation and Development Commission (BCDC)		X	
U.S. Environmental Protection Agency (EPA)		X	
County Airport Land Use Commission (ALUC)		X	
CalTrans		X	
Bay Area Air Quality Management District		X	
U.S. Fish and Wildlife Service		X	
Coastal Commission		X	
City		X	However, copies of this document were sent to all cities in San Mateo County.
Sewer/Water District:		X	
Other:		X	

AGENCY	YES	NO	TYPE OF APPROVAL

IV. MITIGATION MEASURES

	Yes	No
Mitigation measures have been proposed in project application.		X
Other mitigation measures are needed.		X

The following measures are included in the project plans or proposals pursuant to Section 15070(b)(1) of the State CEQA Guidelines:

None.

V. MANDATORY FINDINGS OF SIGNIFICANCE

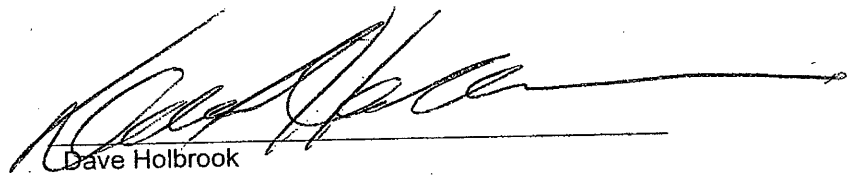
	Yes	No
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal, or eliminate important examples of the major periods of California history or prehistory?		X
2. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?		X
3. Does the project have possible environmental effects which are individually limited, but cumulatively considerable?		X
4. Would the project cause substantial adverse effects on human beings, either directly or indirectly?		X

On the basis of this initial evaluation:

X I find the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared by the Current Planning Section. No mitigation measures are proposed.

_____ I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because of the mitigation measures in the discussion have been included as part of the proposed project. A NEGATIVE DECLARATION will be prepared.

_____ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.



Dave Holbrook

Nov. 22, 2010
Date

Project Planner
(Title)

VI. SOURCE LIST

A. Field Inspection

B. County General Plan 1986

a. General Plan Chapters 1-16
b. Local Coastal Program (LCP) (Area Plan)
c. Skyline Area General Plan Amendment
d. Montara-Moss Beach-El Granada Community Plan
e. Emerald Lake Hills Community Plan

C. County Ordinance Code

D. Geotechnical Maps

1. USGS Basic Data Contributions

a. #43 Landslide Susceptibility
b. #44 Active Faults
c. #45 High Water Table

2. Geotechnical Hazards Synthesis Maps

E. USGS Quadrangle Maps, San Mateo County 1970 Series (See F. and H.)

F. San Mateo County Rare and Endangered Species Maps, or Sensitive Habitats Maps

G. Flood Insurance Rate Map – National Flood Insurance Program

H. County Archaeologic Resource Inventory (Prepared by S. Dietz, A.C.R.S.) Procedures for Protection of Historic and Cultural Properties – 36 CFR 800 (See R.)

I. Project Plans or EIF

J. Airport Land Use Committee Plans, San Mateo County Airports Plan

K. Aerial Photography or Real Estate Atlas – REDI

1. Aerial Photographs, 1941, 1953, 1956, 1960, 1963, 1970
2. Aerial Photographs, 1981
3. Coast Aerial Photos/Slides, San Francisco County Line to Año Nuevo Point, 1971
4. Historic Photos, 1928-1937

L. Williamson Act Maps

M. Soil Survey, San Mateo Area, U.S. Department of Agriculture, May 1961

N. Air Pollution Isopleth Maps – Bay Area Air Pollution Control District

O. California Natural Areas Coordinating Council Maps (See F. and H.)

P. Forest Resources Study (1971)

Q. Experience with Other Projects of this Size and Nature

R. Environmental Regulations and Standards:

Federal	–	Review Procedures for CDBG Programs	24 CFR Part 58
	–	NEPA 24 CFR 1500-1508	
	–	Protection of Historic and Cultural Properties	36 CFR Part 800
	–	National Register of Historic Places	
	–	Floodplain Management	Executive Order 11988
	–	Protection of Wetlands	Executive Order 11990
	–	Endangered and Threatened Species	
	–	Noise Abatement and Control	24 CFR Part 51B
	–	Explosive and Flammable Operations	24 CFR 51C
	–	Toxic Chemicals/Radioactive Materials	HUD 79-33
	–	Airport Clear Zones and APZ	24 CFR 51D
State	–	Ambient Air Quality Standards	Article 4, Section 1092
	–	Noise Insulation Standards	

S. Consultation with Departments and Agencies:

a. County Health Department
b. City Fire Department
c. California Department of Forestry
d. Department of Public Works
e. Disaster Preparedness Office
f. Other

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COUNTY OF SAN MATEO
Planning and Building Department

Initial Study Pursuant to CEQA
Project Narrative and Answers to Questions for the Negative Declaration
File Number: PLN 2010-00227
Ordinance Prohibiting Food Vendors From Using
Polystyrene-Based Disposable Food Containers

PROJECT DESCRIPTION

It is the County's intent to adopt an ordinance (see attached exhibit) restricting the use of Polystyrene-based disposable food containers by retail food vendors operating in the unincorporated area of the County. Polystyrene is a petroleum-based, lightweight plastic material commonly used as a single-use food service ware by retail food vendors. This restriction would be applicable to all such vendors and operations within unincorporated San Mateo County.

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Alternative and effective ways to reduce the negative environmental impacts of such containers include reusing or recycling food service ware and using compostable materials from renewable sources such as paper fiber, cardboard, corn or potato starch. Up to a one-year exemption to the proposed restriction may be granted to any vendor who can demonstrate a hardship from the strict application of the restriction.

This proposed project is aimed at reducing solid waste and decreasing litter throughout the County by regulating and limiting the use of polystyrene foam food packaging by food providers. The project does not propose any directly associated land use activities or actions.

This proposed project is consistent with the County's land use policies and will not conflict with any other applicable land use plan, policy, or regulation. This proposed project will not conflict with any applicable habitat conservation or natural community conservation plans. In some instances, this proposed project may improve habitat/natural community conservation efforts by reducing the amount of litter generated by polystyrene foam food packaging. The use of non-polystyrene foam instead of polystyrene foam food packaging does not involve land use considerations or affect the planning/zoning process.

ANSWERS TO QUESTIONS

1. LAND SUITABILITY AND GEOLOGY

a. Will (or could) this project involve a unique landform or biological area, such as beaches, sand dunes, marshes, tidelands, or San Francisco Bay?

b. Will (or could) this project involve construction on slope of 15% or greater?

c. Will (or could) this project be located in an area of soil instability (subsidence, landslide or severe erosion)?

d. Will (or could) this project be located on, or adjacent to a known earthquake fault?

e. Will (or could) this project involve Class I or Class II Agriculture Soils and Class III Soils rated good or very good for artichokes or Brussels sprouts?

f. Will (or could) this project cause erosion or siltation?

g. Will (or could) this project result in damage to soil capability or loss of agricultural land?

h. Will (or could) this project be located within a flood hazard area?

i. **Will (or could) this project be located in an area where a high water table may adversely affect land use?**

j. **Will (or could) this project affect a natural drainage channel or streambed, or watercourse?**

No Impact (To all above questions). This proposed project will not expose people or structures to the effects of earthquake fault rupture, seismic shaking, ground failure, landslides, soil erosion, unstable soil, or expansive soil. The proposed project will not include the use of septic tanks. The use of non-polystyrene foam instead of polystyrene foam food packaging does not involve any land use activities or actions (although less used polystyrene foodware containers would be deposited into landfill areas); therefore, the proposed project will have no impact on geology and/or soils.

2. **VEGETATION AND WILDLIFE**

a. **Will (or could) this project affect federal or state listed rare or endangered species of plant life in the project area?**

b. **Will (or could) this project involve cutting of heritage or significant trees as defined in the County Heritage Tree and Significant Tree Ordinance?**

c. **Will (or could) this project be adjacent to or include a habitat food source, water source, nesting place or breeding place for a federal or state listed rare or endangered wildlife species?**

d. **Will (or could) this project significantly affect fish, wildlife, reptiles, or plant life?**

e. **Will (or could) this project be located inside or within 200 feet of a marine or wildlife reserve?**

f. **Will (or could) this project infringe on any sensitive habitats?**

g. **Will (or could) this project involve clearing land that is 5,000 sq. ft. or greater (1,000 sq. ft. within a County Scenic Corridor), that has slopes greater than 20% or that is in a sensitive habitat or buffer zone?**

No Impact (To all above questions). This proposed project will help protect biological resources by alleviating the "smaller and smaller" cycle typically associated with polystyrene foam litter. Furthermore, unlike polystyrene foam, many non-polystyrene foam food packaging will degrade more quickly over time, lessening the impacts to plants and animals.

Implementation of the proposed project would not impact any candidate, sensitive or special status species, and would not interfere with the movement of any native resident or migratory fish or wildlife species. The proposed project would not affect any protected wetlands, riparian habitat or other sensitive natural community. The County Code includes regulations that identify areas that need to be protected from development and require permits if potential harm to protected resources could occur. State and Federal regulations also protect biological resources where local permit requirements are not triggered. This proposed project will not conflict with any local policies or ordinances protecting biological resources or with the provisions of any adopted Habitat Conservation Plan (e.g., San Bruno Mountain HCP). Therefore, the proposed project will have no impact on biological resources.

3. PHYSICAL RESOURCES

a. Will (or could) this project result in the removal of a natural resource for commercial purposes (including rock, sand, gravel, oil, trees, minerals or topsoil)?

b. Will (or could) this project involve grading in excess of 150 cubic yards?

c. Will (or could) this project involve lands currently protected under the Williamson Act (agricultural preserve) or an Open Space Easement?

d. Will (or could) this project affect any existing or potential agricultural uses?

No Impact (To all above questions). The proposed project will not cause the loss of prime agricultural soils, adversely affect any Williamson Act or Open Space Easement contracted lands, or cause harm to nearby agricultural operations. The use of non-polystyrene foam instead of polystyrene foam food packaging does not directly involve agricultural resources in the County; therefore, the proposed project will have no impact on agricultural resources.

This proposed project would not result in the loss of availability of a known mineral resource that would be of value to regional/state residents or the loss of a locally important mineral resource recovery site. The use of non-polystyrene foam instead of polystyrene foam food packaging does not involve any grading, land use activities or actions related to the exploration or extraction of mineral resources; therefore, no mineral resources will be affected by the proposed project.

4. AIR QUALITY, WATER QUALITY, SONIC

a. Will (or could) this project generate pollutants (hydrocarbon, thermal odor, dust or smoke particulates, radiation, etc.) that will violate existing standards of air quality on-site or in the surrounding area?

Yes; Not Significant. The use of non-polystyrene foam instead of polystyrene foam food packaging will have no significant impact on the generation of any hydrocarbon, thermal odor, dust particulates, radiation or other pollutants, nor violate any existing standards of air quality, including any significant increase in greenhouse gas emissions.

The Bay Area Air Quality Management District (BAAQMD) (of which San Mateo County comprises approximately ten percent (10%) of the District's total area), based on their 2005 Air Emissions Inventory, states that the total annual average emissions are generated by the following source categories: Petroleum Refining Processes, Other Industrial/Commercial Processes, Organic Compound Evaporation, Combustion, Off-Road Mobile Sources, On-Road Motor Vehicles, and Consumer Products/ Dust Sources. Of the total emissions generated from those sources, San Mateo County contributed approximately 10.5% to the entire BAAQMD area's total emissions. Of the emission categories cited, Nitrogen Oxide (NOx) is considered a greenhouse emission (GHE). Of San Mateo County's total (66 tons per day) such emissions, 95.3% of that is generated by Off-Road Mobile and On-Road Motor Vehicles sources, which represents approximately 12% of the BAAQMD's total NOx emissions. While it is assumed that the manufacture of both polystyrene and polystyrene alternative container materials may occur outside San Mateo County, the County's total emissions from Industrial/Commercial processes (which could be assumed to include the manufacture of both material types) represents only about 2.4% of the County's total emissions (all types). Proportionately, the County's total emissions from such sources are about 8.5% of the BAAQMD's total emissions for the same source.

One byproduct of organic decomposition is methane gas, a greenhouse gas. Decomposition of organic non-polystyrene foam food packaging occurs when these items are disposed of in anaerobic environments such as landfills. Assuming the overall demand for food packaging remains level, any requirement to use organic non-polystyrene foam food packaging will arguable result in an equal amount of new organic food packaging entering landfills. The solid waste disposal site where the County's waste is discarded (Ox Mountain Landfill) is required by state regulations to monitor and control landfill gas emissions (including methane) through the use of active and passive landfill gas collection systems. Moreover, the Ox Mountain Landfill facility has a cogeneration plant which converts the recovered landfill gas into electricity, thereby offsetting the local demand for other nonrenewable energy sources. In the end, the landfill gases produced due to the use of non-polystyrene foam food packaging are controlled and managed in ways that make emission impacts less than significant. Additionally, the Ox Mountain solid waste facilities are required by state regulations to maintain Odor Impact Minimization Plans. Thus, this project will not create objectionable odors affecting a substantial number of people.

The prohibition of polystyrene containers would be expected to trigger a similar amount of alternative containers for use by the previously cited food-serving establishments within unincorporated County areas. In other words, as consumption of polystyrene containers falls among food vendors in the unincorporated area of the County, demand for and consumption of organic non-polystyrene containers will rise in its place, most likely by an equal amount. The County concludes that given the subject polystyrene ban's effect on unincorporated areas (where only 8% of the County's total population resides), as well as the amounts of emissions relative to sources to both the County and in proportion to the BAAQMD's total emissions data, the impact of the increased use of non-polystyrene foam instead of polystyrene foam food packaging is not expected to be significant in relation to the total amount of disposable foodware manufactured, consumed and discarded in the region, state, and nation.

b. Will (or could) this project involve the burning of any material, including brush, trees and construction materials?

No Impact. The use of non-polystyrene foam instead of polystyrene foam food packaging will not involve the burning of any such materials.

c. Will (or could) this project involve the application, use or disposal of potentially hazardous materials, including pesticides, herbicides, other toxic substances, or radioactive material?

No Impact. The use of non-polystyrene foam instead of polystyrene foam food packaging will not create, emit, or otherwise expose the public or the environment to hazardous or acutely hazardous materials since non-polystyrene foam food packaging does not contain significant quantities of hazardous or acutely hazardous materials. Most non-polystyrene foam food packaging is made from materials "Generally Recognized As Safe" by the U.S. Food and Drug Administration.

d. Will (or could) this project be expected to result in the generation of noise levels in excess of those currently existing in the area, after construction?

e. Will (or could) this project be subject to noise levels in excess of levels determined appropriate according to the County Noise Ordinance or other standard?

f. Will (or could) this project generate noise levels in excess of levels determined appropriate according to the County Noise Ordinance standard?

No Impact (Questions d., e. and f.). The use of non-polystyrene foam instead of polystyrene foam food packaging does not involve any activities or actions that would generate or be adversely affected by exposure to excessive noise levels; therefore, the proposed project will have no impact on noise.

g. Will (or could) this project generate polluted or increased surface water runoff or affect groundwater resources?

No Impact. This proposed project would prohibit the use of polystyrene foam food packaging, thereby reducing some amount of small permanent litter in County waterways, storm drains and beaches, and potentially improving County water quality. This project will provide "reasonable protection of beneficial uses and the prevention of nuisance" in accordance with the State Water Resource Control Board's Ocean Plan, Section II.C.1, "Floating particulates… shall not be visible" in ocean waters (at least in terms of where such particulates come from polystyrene containers that originated in San Mateo County).

This proposed project would not violate any water quality standards, deplete groundwater supplies, alter existing drainage, create runoff water, or degrade water quality. Therefore, the proposed project will have no adverse impact on hydrology and/or water quality. By reducing the amount of polystyrene foam litter in local waterways, water quality may be improved. Even assuming that a food container replacement is utilized in lieu of polystyrene-based materials, such replacement products would – by their composition – likely be more biodegradable and would not represent the long-standing pollution source within such cited waterways.

h. Will (or could) this project require installation of a septic tank/leachfield sewage disposal system or require hookup to an existing collection system which is at or over capacity?

No Impact. The prohibition of polystyrene and use of non-polystyrene food containers will have no impact to septic disposal systems or existing collection systems.

5. TRANSPORTATION

a. Will (or could) this project affect access to commercial establishments, schools, parks, etc.?

b. Will (or could) this project cause noticeable increase in pedestrian traffic or a change in pedestrian patterns?

c. Will (or could) this project result in noticeable changes in vehicular traffic patterns or volumes (including bicycles)?

d. Will (or could) this project involve the use of off-road vehicles of any kind (such as trail bikes)?

e. Will (or could) this project result in or increase traffic hazards?

f. **Will (or could) this project provide for alternative transportation amenities such as bike racks?**

g. **Will (or could) this project generate traffic which will adversely affect the traffic carrying capacity of any roadway?**

No Impact (To all questions). The use of non-polystyrene foam instead of polystyrene foam food packaging does not involve any land use activities or actions that would induce or change existing traffic levels or patterns; therefore, the project will have no impact on transportation and/or traffic.

6. LAND USE AND GENERAL PLANS

a. **Will (or could) this project result in the congregating of more than 50 people on a regular basis?**

b. **Will (or could) this project result in the introduction of activities not currently found within the community?**

c. **Will (or could) this project employ equipment which could interfere with existing communication and/or defense systems?**

d. **Will (or could) this project result in any changes in land use, either on or off the project site?**

e. **Will (or could) this project serve to encourage off-site development of presently undeveloped areas or increase development intensity of already developed areas (examples include the introduction of new or expanded public utilities, new industry, commercial facilities or recreation activities)?**

No Impact (Questions a. - e.). The use of non-polystyrene foam instead of polystyrene foam food packaging will not affect the number of food facilities (restaurants, markets, cafés, etc.) that use such materials in San Mateo County. Given the proposed regulations' application to the unincorporated County areas (as opposed to a more typical project's impact to a specific location), the issues cited in the above questions are either not impacted or applicable.

f. **Will (or could) this project adversely affect the capacity of any public facilities (streets, highways, freeways, public transit, schools, parks, police, fire, hospitals), public utilities (electrical, water and gas supply lines, sewage and storm drain discharge lines, sanitary landfills) or public works serving the site?**

No Impact. By replacing polystyrene foam food packaging with products that will biodegrade or can be recycled locally, or indirectly by the encouragement of vendor-

reusable alternatives to the extent disposable foodware is currently in use by eat-in food establishments in the unincorporated area, it will likely result in a reduction in the total amount of food packaging that ultimately reaches the County's Ox Mountain Landfill facility (located on Highway 92, between Highway 35 and Highway 1). Furthermore, to the degree that many non-polystyrene foam food packaging will be disposed into the landfill, they would be expected to degrade more quickly over time, ultimately using less airspace within the facility.

Aside from landfills, the proposed ordinance would not pose any adverse impacts on the other facilities listed in the above-cited question. Further, it is expected that the prohibition of polystyrene-based containers would result in less polystyrene containers ending up in storm drains, along and on streets, highways, freeways, schools and parks in the form of non-biodegradable litter. In some case, wastewater treatment and stormwater drainage facilities may see improvements in current operations by reducing the amount of non-biodegradable polystyrene foam food packaging that are introduced into the systems.

g. **Will (or could) this project generate any demands that will cause a public facility or utility to reach or exceed its capacity?**

h. **Will (or could) this project be adjacent to or within 500 feet of an existing or planned public facility?**

No Impact (Questions g. and h.). The use of non-polystyrene foam instead of polystyrene foam food packaging will not have any impact on the issues cited in the above two questions.

i. **Will (or could) this project create significant amounts of solid waste or litter?**

No Impact. The use of non-polystyrene foam instead of polystyrene foam food packaging will not create significant amounts of solid waste or litter. Potentially a restriction on the use of polystyrene foam food packaging will result in the consumption of an equal amount of alternative material foodware containers, a shift that would not create significant amounts of solid waste or litter as compared to present levels. To some extent it may encourage the adoption of vendor-reusable foodware items, which also would not "create" significant amounts of solid waste or litter. As previously cited, while alternative material foodware containers could still enter the stream and volume of solid waste and litter, it is not expected to increase the amounts. Additionally, such alternative containers would likely degrade more quickly, lessoning the impact further, especially that such litter that finds its way into waterways. Furthermore, since polystyrene foam is easily wind-borne as refuse vehicles dump their loads at the County's Ox Mountain Landfill facility, a reduction

in food packaging reaching the landfill may help reduce wind-borne litter and assist the landfill facility to remain compliant with litter control regulations.

j. **Will (or could) this project substantially increase fossil fuel consumption (electricity, oil, natural gas, coal, etc.)?**

No Impact. The use of non-polystyrene foam instead of polystyrene foam food packaging will not have any impact on or increase fossil fuel consumption.

k. **Will (or could) this project require an amendment to or exception from adopted general plans, specific plans, or community policies or goals?**

l. **Will (or could) this project involve a change of zoning?**

m. **Will (or could) this project require the relocation of people or businesses?**

n. **Will (or could) this project reduce the supply of low-income housing?**

o. **Will (or could) this project result in possible interference with an emergency response plan or emergency evacuation plan?**

p. **Will (or could) this project result in creation of or exposure to a potential health hazard?**

No Impact (Questions k. - p.). The use of non-polystyrene foam instead of polystyrene foam food packaging will not have any impact on any of the elements in the above-cited questions.

7. AESTHETIC, CULTURAL AND HISTORIC

a. **Will (or could) this project be adjacent to a designated Scenic Highway or within a State or County Scenic Corridor?**

b. **Will (or could) this project obstruct scenic views from existing residential areas, public lands, public water body, or roads?**

c. **Will (or could) this project involve the construction of buildings or structures in excess of three stories or 36 feet in height?**

d. **Will (or could) this project directly or indirectly affect historical or archaeological resources on or near the site?**

e. Will (or could) this project visually intrude into an area having natural scenic qualities?

No Impact (To all questions). The use of non-polystyrene foam instead of polystyrene foam food packaging will not have any impact on any of the issues included in the above-cited questions.

DH:pac – DJHU0708_WPH.DOC

ORDINANCE NO._____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * * *

AN ORDINANCE PROHIBITING FOOD VENDORS FROM USING POLYSTYRENE BASED DISPOSABLE FOOD SERVICE WARE

The Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows

SECTION 1. Chapter 4.107, comprising of sections 4.107.010 through 4.107.080, is hereby added to Title 4 of the San Mateo County Ordinance Code and shall read as follows:

Chapter 4.107 PROHIBITION ON THE USE OF POLYSTYRENE BASED DISPOSABLE FOOD SERVICE WARE BY FOOD VENDORS

4.107.010 Findings and purpose.

The Board of Supervisors finds and determines that:

(a) Polystyrene is a petroleum-based, lightweight plastic material commonly used as food service ware by retail food vendors operating in the County. Polystyrene, often referred to by the trademark Styrofoam, has also become a problematic environmental pollutant given its non-biodegradable, and nearly non-reusable nature.

(b) Polystyrene-based, single-use food service ware constitutes a substantial portion of the litter within the County of San Mateo.

(c) Effective ways to reduce the negative environmental impacts of disposable food service ware include reusing or recycling food service ware and using

EXHIBIT

(2) Situations where no reasonably feasible available alternative exists to a specific and necessary container prohibited by this section.

(b) The application process for exemption shall be as follows:

(1) The food vendor seeking an exemption shall submit a written exemption request to the Environmental Health Division.

(2) A written exemption request shall include all information and documentation necessary for the Director of the Environmental Health Division to make a finding that imposition of this chapter would cause an undue hardship as defined in Section 4.107.050(a).

(3) The Director of the Environmental Health Division may require the applicant to provide additional information in order to make a determination regarding the exemption application.

(4) Exemption decisions are effective immediately and are final and not subject to appeal.

(5) The Director of the Environmental Health Division or his/her designee may grant an exemption for a period of up to one year upon a finding that the food vendor seeking the exemption has demonstrated that strict application of the specific requirement would cause undue hardship as defined in 4.107.050 (a).

(c) If a food vendor granted an exemption wishes to have the exemption extended, it must re-apply for the exemption prior to the expiration of the one year exemption period and demonstrate continued undue hardship. Extensions may be granted for intervals not to exceed one year.

4.107.060 Administrative fine.

(a) Grounds for Fine. A fine may be imposed upon findings made by the Director of the Environmental Health Division, or his or her designee, that any food vendor has used polystyrene-based disposable food service ware.

(b) Amount of Fine. Upon findings made under subsection (a), the food vendor shall be subject to an administrative fine as follows:

(1) A fine not exceeding one hundred dollars ($100) for a first violation;

(2) A fine not exceeding two hundred dollars ($200) for a second violation;

(3) A fine not exceeding five hundred dollars ($500) for the third and subsequent violations;

(4) Each day that a food vendor uses polystyrene-based disposable food service ware when providing prepared food shall constitute a separate violation.

(c) Fine Procedures. Notice of the fine shall be served on the food vendor by certified mail. The notice shall contain an advisement of the right to request a hearing before the Director of the Environmental Health Division or his or her designee contesting the imposition of the fine. The grounds for the contest shall be that either that (1) the food vendor did not use polystyrene-based disposable food service ware when providing prepared food or (2) the food vendor would have been granted an exemption under 4.107.060 if the food vendor had applied for such exemption. Said hearing must be requested within ten days of the date appearing on the notice of the fine. The decision of the Director of the Environmental Health Division shall be based upon a finding that one of the above listed grounds for a contest have been met and shall be a final administrative order, with no administrative right of appeal.

(d) Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing

on the notice of the fine or of the notice of determination of the Director of the Environmental Health Division or his or her designee after the hearing, the fine shall be referred to a collection agency within or external to the County.

4.107.070 Severability.

If any provision of this chapter or the application of such provision to any person or in any circumstances shall be held invalid, the remainder of this chapter, or the application of such provision to person or in circumstances other than those as to which it is held invalid, shall not be affected thereby.

4.107.080 Enforcement of this chapter when adopted.

The Environmental Health Division is hereby directed to enforce Chapter 4.107 of Title 4 within an incorporated area of the County of San Mateo if the governing board of that incorporated area does each of the following:

(a) Adopts, and makes part of its municipal code:

(1) Chapter 4.107 of Title 4 in its entirety by reference; or

(2) An ordinance that contains each of the provisions of Chapter 4.107 of Title 4;

(b) Authorizes, by ordinance or resolution, the Environmental Health Division to enforce the municipal code adopted pursuant to subsection (a) of this section, such authorization to include, without limitation, the authority to hold hearings and issue administrative fines within the incorporated area of the public entity.

SECTION 2. This Ordinance shall be effective as of January 1, 2011.

* * * * * * *

EXHIBIT B

American Chemistry Council℠

The Honorable Richard S. Gordon
President, San Mateo County Board of Supervisors
Hall of Justice
400 County Center
Redwood City, CA 94063

December 20, 2010

RE: COMMENTS ADDRESSING CLAIMS IN THE NEGATIVE DECLARATION CONCERNING POLYSTYRENE FOOD SERVICE WARE

Dear Supervisor Gordon:

The American Chemistry Council (ACC) – a national trade association whose membership includes suppliers and manufacturers of take-out food service packaging – supports efforts to reduce litter and disposal through enhanced recycling and litter reduction programs. A cornerstone of ACC's public policy efforts in this area focus on the need to establish a regulatory scheme that is equitable, fact-based and addresses long-term objectives.

The draft ordinance San Mateo County is proposing would, among other things, prohibit retail food vendors from dispensing prepared food or beverages to customers in disposable food service ware made from expanded polystyrene foam. Legislative and regulatory efforts to restrict the use of polystyrene-based foodservice packaging fall short of recognizing the environmental benefits of the material, including the fact that the technology exists to recycle it – and many jurisdictions have made polystyrene part of the solution in their communities, rather than restrict it. **Contrary to popular belief, polystyrene recycling is occurring in many jurisdictions around the country. For example, the City of Los Angeles accepts clean polystyrene foam cups in their curbside recycling program.**

We ask that our comments be considered as part of the public comment period under the Negative Declaration study process. Please consider:

The Complete Picture of Litter in San Francisco

The *2008 San Francisco Litter Re-audit* used randomly selected sites and a proven methodology for litter auditing that is representative of the overall litter occurrence in the City of San Francisco streets. It found in part:

- **All paper cups observed (hot, cold, and other), increased to 2.41% of total large litter after the ban from 1.82% prior to the ban**, while polystyrene cups decreased to 0.78% from 1.13% during the same period.
- Paper hot cups, not polystyrene foam hot cups, was one of the top 25 sub-categories (comprising 84%) of large litter.
- For to-go clamshell packaging, those made from polystyrene decreased from 0.50% in 2007 to 0.19% in 2008 after the ban, **while those made from paper increased from a negligible 0.0% in 2007 to 0.30% in 2008 after the ban.**
- Fiber-based products and items accounted for twice as much litter (by percent) as plastic-based litter.

The San Francisco data indicates that policies focused solely on prohibiting the sale of polystyrene products merely results in a change in the composition of litter, not decreasing it.

It is also worth noting that a major source of polystyrene litter is NOT from food service but rather non-food service such as from protective packaging. Therefore, we believe the polystyrene litter problem can be addressed because this protective packaging is clean and readily recyclable.

Litter and Degradation of Litter

Polystyrene foam, along with bleached coated paperboard, aluminum, glass, plastics or multi-layered materials also used in food service ware in San Mateo County are not a pollutant if they are used and disposed of properly. In our view, there is no environmentally acceptable form of litter and focusing on one specific packaging type falls short of a comprehensive policy that is needed to address litter and marine debris.

Litter does not distinguish itself between biodegradable or non-biodegradable. The perception that "degradable" materials disappear when littered is not only misleading, it sets back meaningful education programs on litter prevention. Research shows that many materials thought of as "biodegradable" leave a residue even after the majority of the material has degraded.

A common misconception is that materials biodegrade in a landfill. It is often mistakenly thought that landfills act as composters, when, in reality, they are vast mummifiers of waste. Very little of the waste discarded in today's modern, highly engineered landfills (including paper, plastic, and even food) actually biodegrades. And it's not supposed to. Since degradation of materials can create potentially harmful liquid and gaseous by-products that could contaminate groundwater and air, today's landfills are designed to minimize contact with air and water required for degradation to occur, thereby practically eliminating the degradation of waste. In fact, landfills are highly regulated by the U.S. Environmental Protection Agency, with comprehensive guidelines meant to prevent any significant decomposition of materials and accompanying production of atmospheric gasses and leachate.

Negative Environmental Impact of Alternative Products

Several independent studies have demonstrated that banning polystyrene foam 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].

For example, the City of Seattle, Washington's own independent analysis[4] (attached) of a polystyrene ban concluded the following impacts would occur:

- Non-renewable energy would increase 214%
- Greenhouse gas (GHG) emissions would increase 234%
- Ozone would increase 134%
- Acidification would increase by 179%
- Eutrophication would increase by 104%
- Waste generated would increase by 240%

The Safety of Polystyrene

Polystyrene is a safe and tested material. The U.S. Food and Drug Administration (FDA) has established safe levels of styrene exposure that may occur from migration foodservice packaging or other products. In fact, the FDA has authorized the use of styrene monomer as an accepted food additive.

Furthermore, styrene has not been classified a carcinogen by any U.S. regulatory agency. The European Union has completed a review of styrene's carcinogenic potential and has proposed that styrene should not be classified as a carcinogen. It is also worth noting that styrene is not persistent or bioaccumulative in the environment generally or in bodies of water specifically.

Additional Facts to Consider

A recommendation to ban the use of expanded polystyrene incorrectly assumes that somehow products like polystyrene are the cause of marine debris and litter and that alternative products are either easily recyclable or a preferred form of litter. Unfortunately, these conclusions are not supported by facts.

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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 Alternative to Disposable Shopping Bags and Food Service Items Volume I, prepared for Seattle Public Utilities, January 2008, Herrera Environmental Consultants

A study conducted by California State University Chico on behalf of the California Integrated Waste Management Board analyzed the degradation of compostable plastics in a variety of settings. The study found that "Only one sample (Mirel) appears to significantly biodegrade after 90 days in the simulated marine environment. The other samples did not appear to degrade in the marine environment." (CIWMB, Proper Use and Benefits of Compostable Plastics, 11/6/07). In other words, **"biodegradable" plastics do not break down in water**.

All foodservice products – regardless of the material from which they are made – require the use of various natural resources (i.e. energy, water, etc.) across their product life cycle in the manufacturing process. A 2006 Life Cycle Inventory (LCI) study by Franklin and Associates (http://www.plasticsfoodservicepackaging.org) showed that polystyrene foam foodservice products, when compared to other food service containers, are very efficient in terms of minimizing air emissions, energy used in the manufacturing process and in reducing the amount of waterborne waste generated during the manufacturing process. Any policy that would arbitrarily ban one material type without examining or considering the life-cycle impacts replacement products falsely assumes those products are somehow manufactured in a vacuum without the use of any raw materials, energy, or water, fuel to deliver the product, etc. Consider these key facts:

- Polystyrene cups have a lighter footprint than alternatives – **they weigh anywhere from two to five times less** than comparable paper packaging products which means fewer air emissions when transporting products.

- Polystyrene foam products are energy savers. A **polystyrene hot beverage cups requires about 50% LESS energy to produce than a similar plastic-coated paperboard cup with a corrugated cup sleeve**. Decreasing energy usage is considered one way to slow global warming.

- According to Life Cycle Inventory analysis, in most cases the **alternative products studied have environmental burdens that are higher than or comparable to polystyrene foam products.**

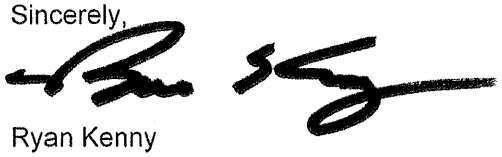
Finally, food establishments in San Mateo County would incur costs of 2-3 times more to replace safe, convenient polystyrene foodservice. This means schools, hospitals, institutions, cafeterias, vendors and small business in San Mateo County would incur higher costs with no environmental benefit from substitutes – should this ordinance focus on restricting polystyrene foam foodservice.

To help ensure that the proposed ordinance does not result in any "unintended environmental consequences" such as those noted above, ACC believes that San Mateo County's proposed ordinance should simply establish a "recycling" and "composting" requirement for all material types to meet, and simply delete the specific prohibition on the use of polystyrene foam food service packaging.

ACC and its members would welcome the opportunity to work with the county, local recyclers and composters and the area restaurants to implement a recycling and composting ordinance that avoids unintended environmental consequences, while reducing litter and disposal of all packaging types. We also encourage you to learn more about polystyrene foodservice (www.americanchemistry.com/pfpg) and all plastics foodservice (www.plasticfoodservciefacts.org) as part of your research.

Thank you for the opportunity to share this information. If you have any questions or comments, please do not hesitate to contact me at 916-448-2581 or via email at ryan_kenny@americanchemistry.com. I look forward to hearing from you soon.

Sincerely,



Ryan Kenny
Manager, State Affairs
American Chemistry Council

cc: Members of the San Mateo County Board of Supervisors
Mr. Dean D. Peterson

ATTACHMENTS (1) – Fact Sheet concerning the 2008 San Francisco Litter Re-audit
(2) – Seattle staff report analyzing the environmental opportunity costs of alternative products

Alternatives to Disposable Shopping Bags and Food Service Items Volume I

Prepared for

Seattle Public Utilities

January 2008

The shaded fields in the Table ES-3 show those strategies with highest reductions in each of the economic cost and environmental burden categories, compared to the status quo. An ARF on all disposable shopping bags provides the most environmental gains (except for litter), and provides for much higher overall economic gains when compared to all strategies. With an ARF on all bags, consumers experience slightly less costs than with a plastic only ARF (due to an anticipated increase in reusable bags), and the region experiences much more economic cost (due to decreased paper production). Again, the City and retailers may both benefit from revenue under either a plastic only or an all-bag ARF

Disposable Food Service Items

The strategies to address disposable food service items were narrowed to the following five for further life cycle cost/benefit and environmental assessment:

- Enhanced education: Begin a public outreach, education and promotional campaign specifically focused on owners/managers of restaurants, cafes, and coffee shops to encourage replacement of disposable food service items with recyclable or compostable alternatives managed through recycling and food waste composting programs. This would become part of SPU's ongoing reduce-reuse-recycle messaging. Expanded polystyrene (EPS) products would be especially discouraged.

- Enhanced education plus ban on expanded polystyrene (EPS) products: Implementation of mandatory ban on EPS food service items only at all food vendors in Seattle. Ban to be phased in plus a later deadline for all food service items to be compostable or recyclable with restaurants enrolled in composting or recycling programs.

- Enhanced education plus advanced recovery fee (ARF) on expanded polystyrene (EPS) products only. The ARF (likely range, 10 to 25 cents) could be remitted entirely to the City, split by the City and merchants who would use their share to promote reusable alternatives and recycling, or retained entirely by merchants for promotion and administrative costs.

- Enhanced education plus advanced recovery fee (ARF) on all non-compostable and non-recyclable food service ware items. The ARF (likely range, 10 to 25 cents) could be remitted entirely to the City, split by the City and merchants who would use their share to promote reusable alternatives and recycling, or retained entirely by merchants for promotion and administrative costs.

Table ES-4 shows a comparison between all environmental categories and the NPV economic costs and benefits calculated earlier. These results were derived from a case study of hot food "clamshell" type containers and may not apply in other cases. (See page 6-23 for the assumptions regarding vendor and consumer behavior when required to switch products.)

Table ES-4. Economic and environmental costs and benefits normalized to status quo.

	Units	Status Quo	Education	Ban EPS	ARF on EPS	ARF on All Types
NPV	$	100%	119%	169%	176%	199%
Non-Renewable Energy	Megajoules (MJ)	100%	105%	214%	173%	156%
GHG Emissions	kg CO2 eq.	100%	105%	234%	185%	162%
Ozone	g ethylene eq.	100%	100%	134%	120%	105%
Acidification	kg SO2 eq.	100%	104%	179%	149%	142%
Eutrophication	kg PO4 eq.	100%	101%	104%	103%	108%
Waste Generated	Tons	100%	105%	240%	189%	162%

Notes: 1. Environmental category units produced summed over a 30-year time frame
2. (NPV) economic costs and benefits over a 30-year time frame
3. Discount rate: 3 percent

Ban on EPS has most negative Greenhouse gas effects

The shaded fields in Table ES-4 show that all strategies have increases in each of the economic cost and environmental burden categories, compared to the status quo. However, the permanence of plastic in the environment dictates its use be minimized. An ARF on all non-compostable, non-recyclable clamshells reflects the least environmental impacts among bans and ARFs. This is due primarily to the incentive toward compostables (e.g., polylactic acid, PLA), which results in lower impacts than paper and polyethylene terephthalate (PET) in the environmental categories considered. The exception is in eutrophication potential, due to nitrogen and phosphorus runoff in agriculture.

Higher composting rates for compostable products, and the potential increase in organics composted with compostable food service products, would likely provide additional energy and greenhouse gas benefits, and cost savings.

Product bans do not reduce litter!

A recent City of San Francisco audit shows the realities of litter. One widely held misconception is that litter is a problem caused by a particular material or category of packaging. The reality is that **litter is the result of irresponsible consumer behavior.**

Data from the recently completed litter audit done for the City of San Francisco confirms that eliminating all food-related polystyrene would simply change the type of litter found on our sidewalks and streets and in our waterways – not reduce the quantity or eliminate the negative effect of the improper disposal that put it there in the first place.

The report used randomly selected sites and a proven methodology for auditing the litter and is representative of the overall litter occurrence on the streets of San Francisco as of April 2008. This report indicates that **polystyrene foam food and drink containers do not constitute a significant component of litter and that prohibiting the sale and use of polystyrene cups does not decrease overall litter but causes a shift in litter to other materials.**

Effectively addressing the litter problem must begin by addressing the source of the litter: irresponsible human behavior. The solution lies in changing that behavior through consumer education and awareness, coupled with enforcement of anti-litter laws by the local authorities.

Source: The City of San Francisco Streets Litter Re-Audit 2008, Prepared for the City of San Francisco Environment Department, July 4, 2008
http://sfenvironment.org/downloads/library/2008_litter_audit.pdf

Facts from the City of S.F. Litter Study:

- Though people have personal opinions about what litter is, the reality is much different. Whereas there is a general perception that select groups of products make up the majority of litter, field research shows that litter is made up of a broad range of products and materials.
- All fiber-based products and items comprised the largest category of total large (> 4 square inches in size) litter observed at 51 percent. [1]
- The largest single type of large litter observed was non-branded paper napkins and paper towels. Printed paper materials were the second most significant litter type, and miscellaneous paper was the third most significant type.
- All plastic litter accounted for 24% of total large litter observed, about half as much (by percent) as fiber-based products and items. [2]
- Paper hot cups, not polystyrene foam hot cups, was one of the top 25 sub-categories (comprising 84 percent) of large litter.
- All paper cups observed (hot, cold, and other) comprised over three times as much total large litter observed by percent (2.41 percent) as polystyrene cups (0.78 percent).
- All paper cups observed (hot, cold, and other), increased to 2.41 percent of total large litter in 2008 from 1.82 percent in 2007, while polystyrene cups decreased to 0.78 percent from 1.13 percent during the same period.
- More specifically, the number of paper hot cups observed increased 58% from 36 pieces in 2007 to 57 pieces in 2008

[1] Includes paper, paperboard, cardboard, towels, napkins, newspapers, books, flyers, printed materials, and business forms and stationary

[2] Includes miscellaneous plastic, plastic packaging, wrap, plastic bags-retail and non-retail, hot and cold plastic drink cups, plastic jars, bottles, composites, utensils, zip bags, beverage containers, trays, polystyrene cups, confectionary, sweet and snack food packaging, pouches, plates, retail bags and carrying rings

EXHIBIT C

Exhibit C - County Staff Response to Comments

The County received a letter from the American Chemistry Council (ACC) dated December 20, 2010 questioning the Initial Study and adoption of an ordinance. Staff responses to the ACC are as follows:

ACC Comment #1
"Contrary to popular belief, polystyrene recycling is occurring in many jurisdictions around the country. For example, the City of Los Angeles accepts clean polystyrene foam cups in their curbside recycling program."

Response #1
While limited recycling of polystyrene materials may be occurring in the City of Los Angeles, the significant question is whether a polystyrene recycling program is available in the areas of the County that will be subject to the proposed ordinance, such that polystyrene could be considered a "recyclable" material here. None of the waste hauler/recyclers within San Mateo County currently accept polystyrene, nor do they have any plans to accept polystyrene in the foreseeable future. Not only is the material not accepted for curbside pickup, but staff is unaware of any program to accept significant quantities of polystyrene for recycling anywhere in the County, even if end users were willing to clean and segregate and deliver their polystyrene materials themselves. If "recyclable" means "capable of being recycled as a practical alternative to being discarded or put into the waste stream," polystyrene cannot be considered to be "recyclable" within San Mateo County.

ACC Comment #2
"*The San Francisco data indicates that policies focused solely on prohibiting the sale of polystyrene products merely results in a change in the composition of litter, not decreasing it."*

Response #2
It is correct to say that the material of which temporary use containers are made is unlikely to have a substantial impact on the amount of it that is discarded by end-users inappropriately. The Initial Study does not conclude that end users will be more likely to litter in the first place if the container they are carrying is made of polystyrene, or that conversely they will be less likely to litter in the first place if their containers are made of compostable or recyclable material. Thus, the conclusions of the Initial Study do not hinge upon an assumption that the substance from which the container is made will effect whether it will be improperly discarded by some end users. Rather, the Initial Study concludes that the ordinance will succeed in its real goal: that of changing the composition of waste, litter or not. As a result, the use of non-polystyrene food packaging is expected to result in a decrease in of the lifepan of some litter. This expected decrease is based on the unique qualities of polystyrene foam as compared to other food packaging materials. Polystyrene foam food packaging, when improperly disposed of or left as litter, has the potential to break apart into small, extremely light pieces and to become windborne. This propensity to crumble makes collecting

polystyrene foam litter extremely difficult during clean ups and other litter abatement efforts. Furthermore, non-polystyrene foam food packaging alternatives derived from plant sources, such as paper fiber, cornstarch, or bagasse, degrade back to organic material over time, unlike polystyrene foam which will persist in the environment for a much longer period of time.

ACC Comment #3
"Litter does not distinguish itself between biodegradable or non-biodegradable. The perception that "degradable" materials disappear when littered is not only misleading, it sets back meaningful education programs on litter prevention. Research shows that many materials thought of as "biodegradable" leave a residual even after the majority of the material has degraded."

Response #3
The ACC does not dispute that unlike compostable materials, the use of which may increase as a result of this ordinance, polystyrene litter breaks into smaller and smaller pieces that sometimes making their way into our waterways to join other non-degradable plastic litter in the Pacific Ocean. Staff agrees that ideally neither polystyrene containers nor compostable or recyclable containers should ever spend even part of their lifespans as litter, and that efforts must be made to ensure that foodware containers remain in the appropriate waste streams, but those efforts are not within the scope of this proposed ordinance. Importantly, the ACC does not present evidence that compostable or recyclable containers are more likely to be discarded inappropriately than polystyrene materials. The proposed ordinance is not intended to address the volume of foodware that becomes litter. It simply reduces by a small amount the percentage of all litter that turns into a known problem pollutant after it is littered, and that has peculiar characteristics when it becomes litter.

ACC Comment #4
"Several independent studies have demonstrated that banning polystyrene foam 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."

Response #4
The environmental impact percentages (non-renewable energy, greenhouse gas, ozone, etc.) cited in the letter are based upon a study done specific to a policy under consideration by the City of Seattle, Washington. Evidence is not provided about the differences between the proposed ordinances, much less the demographic differences between Seattle and San Mateo County. As stated in the study, "Environmental impacts based on estimated consumption data and life cycle inventory data…the results presented here have a great deal of uncertainty due to errors and differences." Since the conclusions of the Seattle study are based specifically on Seattle resident consumption data and business behavior, there is no evidence presented that the conclusions of the Seattle study are significant when scaled down to the areas of the County in which this ordinance will be effective. Furthermore, the impacts percentages are based upon

analyses of alternatives to "clamshell" containers only. It does not account for other type of food packaging such as plates, cups, bowls, etc. Finally, the ACC presents no evidence on the significant differences between the energy generation methods of the states of California and Washington, respectively, or in differences in their solid waste management practices. The fact that a particular policy has energy and solid waste impacts in one state and locality says little about whether the policy — even if the policy terms itself were identical — would have significant impacts if implemented in another state and locality, because the context of energy policy and solid waste management practices varies drastically.

ACC Comment #5
Polystyrene is a safe and tested material. The U.S. Food and Drug Administration (FDA) has established safe levels of styrene exposure that may occur from migration food service packaging or other products. In fact, the FDA has authorized the use of styrene monomer as an acceptable food additive.

Response #5
Human health effects of exposure to polystyrene are not asserted by staff to be a basis for the Initial Study's conclusion that the policy will not have an environmental impact above a threshold of significance.

ACC Comment #6
A recommendation to ban the use of expanded polystyrene incorrectly assumes that somehow products like polystyrene are the cause of marine debris and litter and that alternative products are either easily recyclable or a preferred form of litter.

Response #6
More than half of San Mateo County now has access to single stream composting and recycling, that allows food containers such as cardboard pizza boxes, compostable food ware and certain designated plastics to be either composted or recycled. Unfortunately polystyrene is not accepted for composting or recycling. Based on these services the alternative products are far easier to recycle than polystyrene materials. The ordinance does not advocate either way regarding a "preferred" form of litter. However, it bears repeating that a compostable foodware container can be placed in the green yard waste bin for curbside pickup in more than half of the County, and a polystyrene container must be placed in the bin going to the landfill. A recyclable foodware container can be placed in the blue bin for recyclable materials in more than half of the County, while a polystyrene container cannot. Thus, the assumption that alternative products are easily recyclable is a fair one, in this County at least.

ACC Comment #7
"*food establishments in San Mateo County would incur costs of 2-3 times more to replace safe, convenient polystyrene foodservice"*

Response #7
The ACC does not provide any evidence of this claim. Staff surveyed two of the local

warehouse outlets and found that the cost of non-polystyrene food ware was only slightly more expensive than their polystyrene equivalent. On average only $0.01 to $0.02 per unit difference and in some cases the non-polystyrene option was less expensive than its polystyrene equivalent. In any event, however, the comparative cost of the containers was not a basis for the Initial Study's conclusion that that the policy will not have an environmental impact above a threshold of significance.