

**CalRecycle Responses to 15-day Comments (10/13/2020 – 10/27/2020)**  
**Revised Economic Analysis for the Sustainable Packaging for the State of California Act of 2018**  
**Sorted by Comment Number**

<b>Regulation Section(s)</b>	<b>Comment Number</b>	<b>Commenter Affiliation</b>	<b>First Name</b>	<b>Last Name</b>	<b>Comment</b>	<b>CalRecycle Response</b>	<b>Revisions Needed</b>
Economic Analysis	W01-01	American Chemistry Council (ACC)	Tim	Shestek	Impact Methodology is Not Appropriate in the Current Crisis Conditions. The Appendix to the Statement indicates that the overall employment and economic conclusions were analyzed using the REMI economic model, much as it has been used by most of the state agencies for STD 399 purposes. Use of this model may have been appropriate at the time the rulemaking commenced. In the current economic crisis situation, the fundamental assumptions behind this methodology no longer necessarily apply.	<p>To the extent this comment asserts that CalRecycle did not follow procedures required under the Administrative Procedure Act (APA), the department disagrees. The STD Form 399 is required to be updated only if a state agency has failed to consider a requirement of the APA or if the economic analysis lacks supporting evidence. The department satisfied these requirements as follows:</p> <p>The APA required the department to assess the potential impact of the proposed regulation according to the requirements set forth in Government Code Section 11346.3, including with respect to the items listed in subsections (b)(1)(A) through (b)(1)(D), and include that analysis in the Initial Statement of Reasons required by Government Code Section 11346.2.</p> <p>The department conducted the required analysis and followed the procedures required under the APA. The department made the economic impact assessment available to the public with its notice of proposed regulatory action and conducted a 45-day comment period, which was extended by 23 days in consideration of COVID-19. Further, due to changes that were made to the proposed regulatory text, CalRecycle accordingly revised the economic analysis, notified the public of a 15-day comment period, and reviewed all comments received.</p> <p>Moreover, the department disagrees that the current COVID-related crisis rendered its use of the REMI economic model inappropriate. The department used the REMI model to assess the employment and overall economic impact based on the department's estimation of direct and indirect costs of implementing the proposed regulation, and that estimation has not changed. As with any economic modeling tool, the results of the REMI model are not intended to be perfect predictions; however, the REMI model is a common approach used by many government agencies for assessing economic impacts, providing a standardized context for interpreting the results it produces. Using the REMI model is therefore appropriate given the purpose of the Economic Impact Statement: to provide "tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted in statute . . . in</p>	No

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						<p>the least burdensome manner.” (Government Code Section 11346.3.)</p> <p>Abandoning or changing the REMI model to account for the immediate circumstances related to COVID would not be appropriate because the relevant timeframe for the costs associated with the proposed regulation is far broader than the economic circumstances existing at any one time. By statute, the restrictions imposed by the proposed regulation will not take effect until 90 days after the Office of Administrative Law (OAL) has approved them; also, the proposed regulation will not be fully implemented until 2026, after the full phase-in of the recyclability and compostability criteria. The economic conditions over the entire period from now through 2026 cannot be assumed to be the same as the current economic conditions. Especially given the uncertainty about the course of the COVID-19 pandemic itself, there is no known, reliable basis for predicting its full economic impacts for the relevant timeframe. Given the inherent limitations of economic modeling and the broad timeframe for the effects of the proposed regulation, the use of the standard REMI model, rather than attempting a non-standard approach based on current extraordinary worldwide circumstances, was a reasonable approach for estimating economic impacts. The department additionally took a conservative approach to estimate the economic impacts by making assumptions that resulted in the highest possible costs, when presented with uncertainties, and by including a ten percent buffer to account for unknown additional costs on top of the estimates calculated for each department. See 45-day comment response W04-49 regarding the content and timing of the economic impact assessment and the suggestion that intervening non-regulatory events require revisions to it.</p>	

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Economic Analysis	W01-02	American Chemistry Council (ACC)	Tim	Shestek	No Supply Constraints. The industries and sectors in the model are assumed to have access to additional inputs and labor in order to adjust to changes in demand. This condition clearly has been absent throughout the current crisis, beginning with core supply chain disruptions, continuing shortages of key items including PPE and plexiglass required to operate in compliance with state requirements, and issues with labor availability in many industries. While these may or may not be on their way to resolution, no one has been able to predict accurately the course of the current economic crisis to date nor to determine whether these issues will reoccur in the near or longer term.	See response to comment W01-01 regarding appropriateness of using REMI model.  CalRecycle disagrees that the model supporting the economic and fiscal impact analysis should consider future supply chain disruptions related to the current COVID-19 crisis. As the commenter points out, it may not be possible to “predict accurately” the course of the current economic crisis. The analysis conducted pursuant to Government Code Section 11346.3 is not intended to be a precise “prediction,” however; it is an analytical tool for determining whether a regulation is an effective means of implementing policy in the least burdensome manner. CalRecycle has satisfied its obligation to make an assessment of the potential for adverse economic impacts as required under Government Code Section 11346.3.	No
Economic Analysis	W01-03	American Chemistry Council (ACC)	Tim	Shestek	This aspect is particularly significant given that historically, overall supply of the likely compliant products has been highly variable and often reliant on imports. For example, WebstaurantStore.com shows that of 348 biodegradable and compostable dinnerware and servingware products, only 14% (49) are produced domestically as are 7% (4) of the 56 biodegradable paper hot cups and 40% (18) of the 45 food packaging (various types) using recycled materials. The Statement specifically cites World Centric as a company that manufactures different items, but fails to note that these are mostly manufactured in Asia, with only limited production of PLA lids in the US.  The supply assumption therefore is questionable on two accounts: (1) the alternative product offerings have shifted constantly as producers have come and gone; and (2) a large portion is subject to potential future import disruptions.	See response to comment W01-01 regarding appropriateness of using REMI model.  CalRecycle is unable to predict or assess global market shifts in production and distribution of food service packaging that will impact overall supplies. Such assumptions are beyond the scope of the economic analysis.  See response to W01-02 regarding potential future industry issues.	No

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Economic Analysis	W01-04	American Chemistry Council (ACC)	Tim	Shestek	Fixed Patterns of Purchases. Input/output models are necessarily models of an economy at a specific point in time. Applications assume that at least over some reasonable period of time, these relationships will be stable or at least not shift substantially enough to affect the conclusions. In the current circumstances, the California economy is clearly poised for more fundamental change. While early expectations were for a short but painful downturn followed by a quick recovery, the continuing public health issues combined with shifting reopening directions from the state are now leading into a more prolonged period that is likely to see structural shifts as well.	See response to W01-01 regarding predicting future economic conditions and the appropriateness of using REMI model.  See response to W01-02 regarding potential future industry issues.	No
Economic Analysis	W01-05	American Chemistry Council (ACC)	Tim	Shestek	The current economic baseline provided by Department of Finance for the STD 399 analyses expects employment to still be 6% below the 2020 Q1 level by the end of the forecast period (2023 Q4), and food services containing Leisure & Hospitality to be 27% below. An extended, shallow recovery following the 2008 recession led to substantial changes in the industrial structure of the state. The lengthening recovery period, now being projected by the Department of Finance at some time beyond 2023, indicates the same results are now likely to occur. These regulations will become effective during an extended period when the California economy is expected to still be in recovery mode, and not the pre-COVID conditions on which the Statement conclusions are based.	See response to W01-01 regarding predicting future economic conditions and the appropriateness of using REMI model.	No
Economic Analysis	W01-06	American Chemistry Council (ACC)	Tim	Shestek	Local Inputs are Used Where Available. In addition to use of the model, this assumption is also essential to the Statement's conclusion that no businesses will be eliminated as a result these regulations. The Statement analysis largely arrives at this conclusion from the contention that the larger producers provide a range of products, including some likely to be in compliance with the proposed regulations. The regulation itself however breaches this assumption by adding product selection criteria that are not contained in the model itself. Local availability no longer suffices; the inputs local or otherwise must now satisfy regulatory criteria in addition to the economic factors contained in the model.	See response to comment W01-01 regarding appropriateness of using REMI model.  To the extent this comment suggests that businesses will be eliminated as a result of these regulations, CalRecycle disagrees. As described in detail in the Initial Statement of Reasons, staff research revealed that many manufacturers produce a wide range of products, some of which may be compliant with the proposed regulation. In addition, many food service facilities are already using food service packaging that will be compliant with SB 1335, due to local ordinances or sustainability initiatives that have been enacted by facilities. Given that the regulation only impacts 4 percent of California dining establishments, and therefore an even smaller fraction of the statewide marketplace for food service packaging, the department determined the regulation will likely have a negligible impact and will not result in the elimination of businesses. See also 45-day comment response W25-02.	No

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Economic Analysis	W01-07	American Chemistry Council (ACC)	Tim	Shestek	This result has implications for how future purchases will be sourced. Food service products have considerably different production profiles. Largely because of trade-offs in transportation costs of raw materials vs. final product, a number are produced in more centralized locations closer to the raw materials, while others, such as polystyrene foam, are produced near the final markets. Still others, such as the biodegradable and compostable products discussed above, are produced in other countries due either to raw material availability (e.g., bagasse) and/or cheaper labor required to make the final product price more competitive. For example, the previously referenced World Centric web site states: "We currently manufacture our products in Asia so that we can provide an affordable alternative to plastic." A substantial portion of any offsetting employment/income gains consequently will not be from sourcing within the California economy, but instead will be experienced at far lower levels by coming in through wholesale trade.	See response to comment W01-01 regarding appropriateness of using REMI model.  See response to W01-02 regarding potential future industry issues.	No
Economic Analysis	W01-08	American Chemistry Council (ACC)	Tim	Shestek	By looking at entire, large companies, the Statement's conclusion on business closures is also misleading. While the viability of entire companies—at least for those that are not small businesses—is unlikely to be affected by the proposed regulations, individual units can be, if not as a result of the immediate regulations, then in the longer-range purpose of the statute to produce broader shifts in foodservice sourcing in the state. As stated by the bill's author, Senator Allen: "SB 1335 calls on the state to take the much needed step to phase out single-use food packaging at state facilities. This will reduce the amount of this litter-prone material spoiling our beaches and parks and will set an example for how to reduce the use of this material statewide."	See response to comment W01-01 regarding appropriateness of using REMI model.  See response to W01-11 regarding the consideration of changes to food service packaging outside of those covered by the proposed regulation.  CalRecycle performed the economic analysis required by the APA, which requires the department to assess, among other impacts, the estimated impacts of the regulation on small businesses and individuals. Therefore the analysis is not misleading and was not limited to large companies. The department estimated that 20 food service packaging manufacturers will be impacted by the regulation, approximately 25 percent of which are small businesses. See Section B1 in the Form 399 and Appendix for cost estimates to businesses and individuals.	No
Economic Analysis	W01-09	American Chemistry Council (ACC)	Tim	Shestek	A survey of polystyrene foam producers in 2009 identified 6 facilities in California. After additional primarily coastal local governments enacted bans on these products, our more recent survey in 2019 found only 4 remaining. Food service products tend to be produced with specialized equipment that is not easily shifted to other products. As in-state demand declines, the company decisions to shift to other products becomes a more capital intensive one where the state's competitive disadvantages for new manufacturing come into play.	See response to W01-06 regarding the impact of these regulations on foodservice packaging manufacturers, which may be located outside of California.	No



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Economic Analysis	W01-10	American Chemistry Council (ACC)	Tim	Shestek	Entire companies may not be as affected if they are large, but individual units can be, as has already been the case.	See response to comment W01-01 regarding appropriateness of using REMI model.  See response to W01-08 regarding impacts to individuals.	No
Economic Analysis	W01-11	American Chemistry Council (ACC)	Tim	Shestek	While the effects stemming solely from the state-related facilities are unlikely to be large enough to have this effect on their own, the statements from Senator Allen indicate the legislative intent is that the current regulations are to serve as a model for broader adoption statewide. The specific manner in which the Department has chosen to implement these provisions—the “model” being offered to the rest of the state—consequently should be considered from its potential cumulative effects as well.	See response to comment W01-01 regarding appropriateness of using REMI model.  CalRecycle disagrees with the commenter’s suggestion that the economic analysis should assess the impacts of a broader adoption of regulations concerning foodservice packaging sourcing in the state. CalRecycle’s obligation is to analyze the economic impact of the proposed regulation, not the “potential cumulative effects” of a regulation due to its hypothetical use as a model for future legislation or regulations. Any comments made with regard to future legislation have no bearing on and do not change the department’s analysis of economic impacts that will be incurred due to the implementation of SB 1335. The APA does not require an agency to consider “potential cumulative effects” of a regulation due to its use a model for future regulations.  Rather, Government Code subsection 11346.3(b)(1) specifies that a state agency must assess a regulation’s effects with respect to the creation or elimination of jobs and businesses within the state, the expansion of businesses currently doing business within the state and the benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.	No
Economic Analysis	W01-12	American Chemistry Council (ACC)	Tim	Shestek	Estimated Costs for Businesses are Uncertain. The Statement’s cost estimates are based on an “average increased cost of \$0.02 between compliant and noncompliant food service packaging items.” It is not clear from the Statement how this amount was determined. The Statement contains references to alternatives that staff believes will likely be compliant with the proposed regulations, but the document gives no indication of what these will be.	CalRecycle made its determination as follows: First, staff identified recyclable and compostable material types anticipated to be compliant under the proposed regulation. Then, cost data of food service packaging items was aggregated by material type to calculate the average costs by material type for items made of presumed compliant versus noncompliant materials. The average cost of all food service packaging items currently available for use by food service facilities was subtracted from the average cost of likely compliant food service packaging items, resulting in an average increased cost of \$0.02 between compliant and noncompliant food service packaging items.	No

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Economic Analysis	W01-13	American Chemistry Council (ACC)	Tim	Shestek	In many instances, lined paper (generally PE but also other materials) products have been the least costly replacement for food service items covered in the existing local coastal bans in California. Yet, the “recyclable” determination under section 17989.4(a)(3) includes the requirement that “Prior to December 31, 2025, the food packaging material is collected by at least 60 percent of recycling programs statewide . . .” Most, if not all, local recycling programs, however, do not accept any materials with food contamination, making this option likely noncompliant.	The purpose of the regulation is to establish the criteria for determining if a food service packaging item is recyclable. These criteria were developed based on product design rather than the condition of the product at end-of-life because a recycling program would have the discretion to remove contamination on a case-by-case basis. There may be instances where a product is free of food waste and could be recycled. Conversations with the recycling industry have also indicated that there may be instances where food service packaging items with some level of food contamination are still accepted for recycling, such as pizza boxes.	No
Economic Analysis	W01-14	American Chemistry Council (ACC)	Tim	Shestek	The increase in lined paper product use has also led to additional product restrictions based on recyclability criteria, as the linings have become more problematic for recycling machinery. For instance, a number of countries, as well as the city of Berkeley, have moved to ban paper cups. This aspect has become more significant following China’s Operation National Sword in 2017 and as other developing countries seek to avoid becoming, in essence, the disposal option for developed country recycling programs.	This comment does not raise issues relevant to whether CalRecycle followed rulemaking procedures required under the APA, nor is it specifically directed at the proposed regulation itself. As such, no response is required.	No
Economic Analysis	W01-15	American Chemistry Council (ACC)	Tim	Shestek	Local bans have also included compostable requirements, often resulting in compliant options being restricted more to biodegradable products, including molded fiber and plant-based plastics. Yet, the “compostable” determination under section 17989.5(a)(1) includes a requirement that “Prior to December 31, 2025, the food service packaging material is regularly collected for composting by at least 50 percent of organics recycling programs statewide . . .” Comments received on the prior 45-day comment period indicate this standard, even as revised, is unlikely to be achieved by many current products marketed as compostable.	This comment does not concern the economic impact statement, so no response is required.  CalRecycle revised the collection and acceptance thresholds for compostable food service packaging from 75 percent to 50 percent to accommodate concerns over items not being able to reach the threshold requirement in the near term and to align with the measurable collection and acceptance thresholds and diversion goals of SB 1383, (Lara, Chapter 395, Statutes of 2016). The collection and acceptance thresholds will increase to 75 percent on January 1, 2026, which coincides with the increasing number of compost facilities and organics recycling programs required to meet the diversion goals of SB 1383. See also 45-day comment response W07-02.	No
Economic Analysis	W01-16	American Chemistry Council (ACC)	Tim	Shestek	Without further clarification from the Department on what types of products it believes could be compliant, it is difficult to assess the validity of the 2-cent increment and the subsequent conclusions in the Statement.	See response to W01-12 regarding CalRecycle’s process for estimating the increased cost for compliant food service packaging items.	No

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Economic Analysis	W01-17	American Chemistry Council (ACC)	Tim	Shestek	Nor is it possible to assess the likely impact of this increment without context. For example, a 2-cent increase on products having a current average cost at the same level would see a 100% increase in current costs for service ware. Our most recent analysis, using procurement data from Department of General Services, other state agencies, and a number of school districts and other local agencies, indicates that a shift to fully compostable alternatives would raise average foodservice costs by 90% to 240% compared to polystyrene foam products, and 40% to 120% for other plastic products. A 100% increase on total food service ware costs is certainly within the range for most of the affected businesses.	<p>This comment asserts that CalRecycle’s estimate of a \$.02 increase in cost per item would equal a 100 percent increase for some businesses. This assertion does not indicate insufficiency of the economic analysis or identify any other issue related to the rulemaking process, so no response is required.</p> <p>The estimates cited by the commenter concern “a shift to fully compostable alternatives,” but this regulation does not require food service facilities to use only compostable food service packaging. Facilities may use any item on the List of Approved Food Service Packaging, including reusables, which are the lowest-cost option when amortized over the first year of use. CalRecycle’s cost estimate considered a variety of materials anticipated to be noncompliant including, but not limited to, expanded polystyrene (EPS), which is already restricted in many California jurisdictions. Additionally, items considered compostable by the ACC analysis may differ from those that will meet the regulatory criteria for compostability.</p> <p>See response to W01-12 regarding CalRecycle’s process for estimating the increased cost for compliant food service packaging items.</p>	No
Economic Analysis	W01-18	American Chemistry Council (ACC)	Tim	Shestek	These cost increments are based on the lowest cost alternative, and in practice, businesses have incurred higher costs as they select alternatives not just based on lowest cost, but in order to secure other essential performance factors related to product stability, insulation, sanitary considerations, and others. The typical example in this regard is the use of double cupping, addition of sleeves for hot beverages, or higher costs for a product that incorporates some element of these protections. In an analysis of detailed cost accounting we obtained through Public Records Acts requests for a food service operation at a California State University campus and another one at a University of California campus in 2017, the actual cost increase was 199% for the CSU business and 217% for the UC business or more than twice what a comparison based on lowest cost alternatives indicated.	<p>The department conducted its analysis based on the cost of anticipated compliant replacements to anticipated non-compliant food service packaging items. Facilities will have the discretion to choose from a variety of compliant replacements to meet their business needs, and the economic analysis considered the additional cost of a functional replacement, described in Section B.1.(a) and (b) in the Appendix.</p> <p>See response to W01-12 regarding CalRecycle’s process for estimating the increased cost of compliant food service packaging items.</p>	No



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Economic Analysis	W01-19	American Chemistry Council (ACC)	Tim	Shestek	Food service operations are low profit margin businesses, which, based on various years of the Restaurant Association's Restaurant Operations Reports, range around 3% for full-service restaurants and around 6% for limited service restaurants. One estimate using the same data source puts the cost of "to go" ware at about 0.3% for full service and 1.6% for limited service. Consequently, while a 2 cent a piece impact may seem small in itself, if overall service ware costs are doubled, profit margins for a limited service operation would be reduced by 27% unless they are in a position to raise their prices. In the current and likely economic climate, few restaurants will be able to do so as they struggle to reopen and compete with every other food service business struggling to rebuild.	See response to W01-01 regarding predicting future economic conditions.	No
Economic Analysis	W01-20	American Chemistry Council (ACC)	Tim	Shestek	Costs Have to Be Considered Cumulatively. The additional costs that would be imposed as a result of the proposed regulations are not the only cost factor currently being faced by the affected businesses: A large portion of these businesses are currently closed as state workers have shifted to telework, parks and fairs are closed, and as universities have turned to remote learning. There is no indication yet when these will reopen, nor the extent to which they will reopen. In the May Budget Revision, the governor stated his intention to shift more of the state workforce to permanent telework arrangements. This shift will substantially reduce the potential sales recovery for many of the affected businesses, especially small businesses.	See response to W01-11 regarding the required considerations for the economic analysis.  See response to W01-01 regarding predicting future economic conditions.	No
Economic Analysis	W01-21	American Chemistry Council (ACC)	Tim	Shestek	To date, food services as an industry in the state has been one of the hardest hit by the current crisis. Employment Development Department data indicate that Food Services and Drinking Places in the most recent data employed 1,126,800 workers in September, still 339,900 below the level in February. Nationally, National Restaurant Association surveys indicate that about 100,000 restaurants have already closed during the crisis, and 40% of the remaining operators say they are unlikely to be in business six months from now if they do not get significant relief.	This comment does not raise issues relevant to whether CalRecycle followed rulemaking procedures required under the APA, nor is it specifically directed at the economic analysis itself. As such, no response is required.	No
Economic Analysis	W01-22	American Chemistry Council (ACC)	Tim	Shestek	The economic baseline against which the STD 399 analyses are supposed to be done further indicates that this industry is unlikely to recover until sometime after 2023. By increasing costs during this period, the proposed regulations will raise additional barriers to the ability of the affected businesses to reopen and to survive.	See response to W01-01 regarding predicting future economic conditions.	No

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Economic Analysis	W01-23	American Chemistry Council (ACC)	Tim	Shestek	<p>The proposed regulations are not the only added costs these businesses will face as they seek to reopen:</p> <p>Additional costs for PPE and other social distancing provisions as required under the state’s reopening provisions.</p> <p>Reduced sales potential as a result of the same state provisions limiting the number of customers.</p> <p>Increasing energy costs as a result of the state’s energy policies.</p> <p>Viewed from this baseline, the additional costs from the proposed regulations are not a small, absorbable cost or one that can be easily passed on to customers through higher prices. The costs come on top of other increasing costs precisely at the same time most of the affected businesses are attempting to reopen and compete with every other food service operation facing the same circumstances. The analysis should be done from this micro perspective rather than a model that is based on economic conditions that will not be seen in the state again for at least 3 years as projected by the Department of Finance, if ever.</p>	The additional costs listed are outside factors not required for consideration in the economic analysis. See response to W01-11 regarding the required considerations for the economic analysis.	No
Economic Analysis	W01-24	American Chemistry Council (ACC)	Tim	Shestek	<p>Benefits are Not Properly Considered. The implementing regulations for STD 399 require that: (1) Both total and incremental benefits and costs should be estimated, and (2) a description of the applied analytical methods and data sources used and the results of that analysis. While the document makes an effort to comply with these provisions, it is incomplete in the following manner for each of the four listed benefits.</p>	<p>See responses to W01-25 through W01-29 regarding each of the specific benefits.</p> <p>To the extent this comment’s mention of the “implementing regulations for STD 399” is a reference to Title 1, Section 2003 of the Code of California Regulations (also published by the Department of General Services at Section 6600 of the State Administrative Manual), that regulation concerns the Standardized Regulatory Impact Assessment for Major Regulations required by Section 11346.3(c) of the Government Code. They do not apply to CalRecycle’s STD 399. The methodologies and data sources used to conduct the economic analysis, along with the results, are presented in the STD 399 and Appendix.</p>	No

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Economic Analysis	W01-25	American Chemistry Council (ACC)	Tim	Shestek	Increased use of reusable food service packaging. This is not a benefit; it is the purpose of the regulations. The purpose of STD 399 is to provide information on whether the costs of that actions outweigh its potential benefits.	<p>CalRecycle disagrees with the commenter’s suggestion that the purpose of the STD 399 is to determine whether the cost of the proposed regulation outweighs its potential benefits. Pursuant to Government Code section 11346.3, analyses conducted pursuant to that section are not cost-benefit analyses of the regulation generally, but rather tools to assess whether the proposed regulation is “an efficient and effective means of implementing the policy decisions enacted in the statute . . . in the least burdensome manner.” The analysis is not a test of whether a regulation’s benefits are greater than its costs; it is an assessment of whether a regulation implements a statute cost-effectively.</p> <p>CalRecycle disagrees with the commenter’s suggestion that increased use of reusable packaging is not a benefit of the regulation. Increasing the use of reusable packaging is both the “purpose” of the regulation and one of the intended outcomes, or benefits, of the policy decisions embodied in the statute. An increase in the use of reusable food service packaging items is a benefit because reusable items reduce the use of single-use items and inherently pose less adverse environmental effects. Items designed for a single use are associated with increased production, transportation, disposal, and littering. Increasing the use of reusable packaging is therefore one of the intended benefits of the statute, which generally aims to reduce litter and other environmental harms by phasing out the use of single-use food packaging at state facilities.</p>	No
Economic Analysis	W01-26	American Chemistry Council (ACC)	Tim	Shestek	More uniform materials sent for recycling and composting. No analysis is provided on why this is a benefit or the extent to which it is a real benefit given the relatively small amount of materials involved compared to current waste and diversion streams.	See response to W01-27 regarding the recycling and litter benefits of the proposed regulation.	No

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Economic Analysis	W01-27	American Chemistry Council (ACC)	Tim	Shestek	Decreased litter. This is the one issue with the most analytical support, but also the proposed benefit with no substantive basis. The analysis shows no connection between changing product use at highly centralized facilities on state properties and more generalized litter data. In fact, the literature more generally shows there is no connection between litter generation and changing the types of food service products being used. The more general result is that what is being littered changes. This outcome was shown in surveys done both before and after the ban on polystyrene foam in San Francisco. As referenced in the comments submitted by the Plastics Industry Association on the prior 45-day comment period, the State Water Resources Control Board has previously stated: . . . other types of product bans enacted by an ordinance, such as take-out items, may involve a substitution of the banned item. Mere substitution would not result in reduced trash generation if such product substitution would be discarded in the same manner as the banned item. Any such product ban enacted by an ordinance that would not reduce trash would not assist in achieving compliance. It is possible that an MS4 permittee's adoption of other types of ordinances could include anti-litter laws or bans on smoking that would meet the requirements.	The APA does not require the Economic Impact Statement to include a statewide litter analysis or an estimation of the dollar value of the estimated benefits. As described in the ISOR, efforts to increase the recovery of packaging will improve the statewide recycling rate and will have the additional benefit of reducing litter and its negative impacts to the environment. Materials that have robust recycling markets are more likely to be collected for recovery. Ensuring a food service packaging item is collected and accepted is one important factor that can have a positive impact on reducing litter. Additionally, increasing the use of reusable, recyclable and compostable food service packaging items in state facilities will result in less litter in the state's waterways and marine environments.  The comment provided by the Plastics Industry Association (W25-03) was addressed in the 45-day comment matrix.	No
Economic Analysis	W01-28	American Chemistry Council (ACC)	Tim	Shestek	The proposed regulations are not an anti-litter program. They are a product substitution program. Nor do they indicate whether littering from the subject products is a problem at the affected facilities. Using more generalized littering data is not appropriate without first establishing these connections. The subsequently claimed benefits to wildlife—with no analytic justification—similarly relies on this unsubstantiated connection.	See response to W01-27 regarding the recycling and litter benefits of the proposed regulation.	No
Economic Analysis	W01-29	American Chemistry Council (ACC)	Tim	Shestek	Improved public health. Presumably, this benefit is intended to be justified by the discussion on both greenhouse gas emissions and reducing toxic chemicals. In the first instance, the analysis looks at only one stage in the life cycle of these products. It improperly makes an observation that may or may not be applicable to the products in question depending on how they are handled, rather than justifying a greenhouse gas benefit based on their production, use, and end of product life options.	The estimated benefit of this regulation considers the effect of the regulation using the best information available to CalRecycle. The department cannot predict which specific food service packaging items will be used by the food service facilities; therefore, this narrative evaluation describes the overall benefits of an increased use of food service packaging items that are reusable, recyclable, or compostable.	No



**CalRecycle Responses to 15-day Comments (10/13/2020 – 10/27/2020)**  
**Revised Economic Analysis for the Sustainable Packaging for the State of California Act of 2018**  
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Economic Analysis	W01-30	American Chemistry Council (ACC)	Tim	Shestek	The fact that many likely compliant alternatives are produced overseas in countries with coal-dependent energy systems and then transported for use in this state should at least raise the question of whether the overall balance on greenhouse gases will be positive or negative. In the second instance, the analysis is better described as supposition. The listed items are couched as “may reduce” rather than an analysis that details specific health benefits that would occur from the regulation and compares any offsetting risks from the production and use of alternative products.	See response to W01-29 regarding greenhouse gas emissions associated with food service packaging items.	No
Economic Analysis	W01-31	American Chemistry Council (ACC)	Tim	Shestek	Alternatives are Not Appropriate. The two alternatives considered in the analysis are similar to those typically used in a STD 399 exercise—add flexibility to the restrictions in some areas or increase the paperwork burden in others. But the state is not in typical conditions. A proper analysis that takes into consideration the factors discussed above should instead come to a different conclusion. The state is in an unprecedented economic crisis. The affected businesses now face dire conditions of the sort they have never experienced before, and the cost and length of the impending recovery period already promise more than enough challenge ahead. There is not even an assurance on when the state offices, campuses, parks, and fairs that host these facilities will be open.	See response to W01-01 regarding predicting future economic conditions.	No
Economic Analysis	W01-32	American Chemistry Council (ACC)	Tim	Shestek	A more proper alternative to consider in light of these conditions is to delay the effective date of the regulations. While the Department likely does not have the authority to do this on its own given the statutory language, effecting this alternative can be done through an executive order much as many other state regulations have been waived in the current crisis.	Delaying the implementation date of the regulation is outside of CalRecycle’s scope of authority. The department has a statutory mandate to adopt the regulation by January 1, 2021 and publish the List of Approved Food Service Packaging Items within 90 days of the regulation being approved by the Office of Administrative Law.	No