



WASHINGTON REFUSE & RECYCLING ASSOCIATION

June 15, 2020

Solid Waste Management Program
Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

To Whom It May Concern:

The Washington Refuse and Recycling Association (WRRA) is the oldest Solid Waste Trade Association operating on the West Coast of the United States, founded 69 years ago. WRRA represents the private sector solid waste and real recycling industry in Washington, from curbside collection service, state of the art recycling facilities, to landfills. WRRA member companies and the solid waste industry serve a vital role in public health, safety, and environmental protection.

Our members work in their communities every day and provide essential services. Washington's solid waste system is a successful public-private partnership. Washington's regulated and municipal solid waste system provides for excellent service, has consistently beat the national recycling rate by double digits, and creates family wage jobs— all at a transparent and affordable price.

Thank you for the opportunity to comment on this report. Since the beginning of the recycling market crisis, WRRA has stood at the forefront providing information, market updates, stakeholder feedback, and policy solutions. WRRA has participated in the many stakeholder groups established by DOE and worked closely with legislators and other stakeholders on legislation that resulted in this report.

At the outset, the report does not appear to meet the statutory requirements of RCW 70.380. Ultimately, the report lacks consideration of many issues raised by WRRA and other industry stakeholders throughout this process and includes little discussion of existing service providers in crucial sections of the report.

In these comments, WRRA will elaborate on the following high-level concerns with the report:

- The report does not identify costs and benefits to existing service providers as required by statute and excludes the solid waste industry in key stakeholder sections.
- The report fails to raise important questions regarding Extended Producer Responsibility (EPR) and fails to articulate true costs and impacts to consumers and stakeholders.
- The report does not address key sources critical of EPR programs, including a [report](#) Commissioned by the West Coast Refuse & Recycling Coalition (WCRRC) on the British Columbia EPR system and a [2020 study](#) by York University (discussed in more detail below).
- The Report does not examine the issue within the new paradigm brought by COVID-19 related to essential services and single-use plastics.

- The Report does not address how goals can be met within the existing system.

I. Concerns from existing service providers are underrepresented and not included in key stakeholder sections:

A. The report does not fulfill the statutory obligation to identify costs and benefits to businesses affected by the policy: RCW 70.380.020(5) defines stakeholder as “a person who may have an interest in or be affected by the management of plastic packaging.” Existing waste and recycling service providers are perhaps more affected by the management of plastics packaging than any other stakeholder group for one reason: they actively manage it. WRRRA members collect and process the majority of plastics packaging in Washington and process the material at their MRFs.

- RCW 70.380.020(1)(a)(iv) requires an assessment of “Costs and savings to all stakeholders in existing product stewardship programs where they have been implemented...” The report does not include a discussion of costs to existing service providers impacted by EPR or the transition to an EPR system.
- An analysis of costs to existing service providers could include lost revenue/business due to changes in regulatory structure or contracts, lost investments in equipment and facilities, new required investments in equipment and facilities, legal fees, cost of transition, etc.
- In most cases in Washington, private sector solid waste and recycling services must be provided under a certificate granted by the WUTC or pursuant to a municipal contract. The report fails to address costs to existing service providers.

B. The report does not include any representation from existing service providers under Potential EPR Advisory or Management Organizations: Over 20 government, non-profit, trade associations and industry groups are listed among candidates for advisory or management positions under an EPR framework. Many have no true role in oversight, operations, or the solid waste industry. None of the listed organizations represent private sector stakeholders that actually provide waste or recycling services.

II. Extended Producer Responsibility Discussion:

Sections that address EPR programs fail to raise important issues and questions. The report and recommendations should raise and address the following issues:

A. The consumer ultimately pays, probably twice, under EPR: The report fails to meaningfully explain that the consumer still pays under EPR with statements like “EPR programs are a means of ensuring that the “polluter pays” principle is applied to waste management.” This statement is fundamentally misguided. Manufacturer’s simply pass on the cost of EPR programs to consumers. In many EPR programs, these costs are not transparent and simply embedded in the cost of every product purchased.

- The report glosses over costs to consumers in stating “... EPR programs move the end-of-life management costs for targeted materials from municipalities and ratepayers/taxpayers to producers and consumers.” This fails to recognize that the ratepayers *are* the consumers that EPR shifts costs to— albeit without the transparency of a bill at the end of the month.
- EPR may result in savings to municipalities, but at the expense of their residents. If an EPR program does not require proportionate cost decreases to residents, then consumers

will pay twice for the same service they get today—and no longer know how much they truly pay for the same service.

- A recent study estimates that a 100% EPR program for printed paper and packaging will increase the cost of groceries and packaged products by 5-7% ([York University](#)).

B. EPR is effectively a regressive sales tax increase on essential goods with disproportionate impacts on those least able to pay. Much of the plastic packaging in the waste stream comes from essential goods like food, paper products, and medicine. These essentials all become more expensive to account for the built-in cost of the EPR program. Washington's tax system is one of the most regressive in the nation with the 4th highest sales tax. EPR operates effectively as a sales tax increase that will disproportionately affect those least able to afford it on almost every essential purchase.

C. With EPR, residents that do not receive service through the EPR program still pay for it: EPR embeds the cost of service into every product purchased that comes in packaging covered by the program. In the case of BC and other EPR programs, stewardship organizations do not provide universal service to all residents. However, the residents of underserved communities must still pay for the program in all covered products/packaging they purchase, even when the program refuses to serve their community.

- Under Washington's existing system, solid waste collection companies must provide universal service to all and the cost is spread across the rate base to keep costs affordable for all. A UTC regulated company cannot pick and choose customers. The report fails to consider how small and rural communities will receive the service they pay for under an EPR program.

D. Accountability, Transparency, Local Control:

- EPR programs delegate essential public services to packaging industry-controlled operations that set their own policy, practices, and prices. EPR programs are typically managed by stewardship agencies, under the control of industry groups, with a structure that gives "the force of law" to their policies.
- EPR lacks accountability. Local authorities traditionally fund and operate solid waste systems. Local governments are directly accountable to their residents and subject to the public records act.
- In Washington, rates are approved by the UTC or negotiated through contracts with municipalities. Currently, residents receive a bill at the end of their billing cycle. In UTC regulated areas, each service is included as a separate line item. Under EPR, residents will not know what they pay as costs are embedded in covered products/packaging and manufacturers have an unlimited ability to recover costs.
- BC's EPR program has been regularly criticized for its lack of transparency with regard to system costs, what residents really pay, true recovery rates, and destination of materials ([WCRRC Report](#)).

E. Contrary Sources & Product Design: The report fails to give due consideration to sources critical of EPR frameworks. Two particularly important sources are ignored, [a 2019 report](#) commissioned by the WCRRC, authored by national expert Chaz Miller and a [2020 York University Report](#) by Dr. Calvin Lakhan. Key findings from these reports are summarized below:

- **WCRRRC Miller Report**
 - The report points to a lack of transparency, which makes it nearly impossible to evaluate the program’s true cost, effectiveness or the recycling rates that result.
 - Manufacturers pass on the costs of EPR to their customers as a cost of doing business.
 - BC’s program “actively discriminates against lightweight products that are hard to recycle, but still have a lower environmental footprint than their recyclable competitors.”
 - BC’s EPR system adopts a recycle-only approach to material management that is uninterested in achieving the lowest environmental footprint.
 - For many communities, EPR does not cover their full costs. As a result, the true costs of recycling are underestimated.
 - **Product redesign:** EPR has not led to packaging redesign. Even EPR advocates concede this fact. For instance, the Organization for Economic and Cooperation and Development’s review of EPR in 2015 sadly confirmed that design for the environment improvements attributable to EPR have been few in number and anecdotal at best.”

- **York University Report**
 - Program costs have increased by approximately 26%, while program performance (measured as % tons diverted) has increased by 1%.
 - Despite increases in service coverage, total collected recycled tons remains unchanged, while tons of material sent for disposal is increasing.
 - Increases in the cost of recycling printed paper and packaging is ultimately born by the consumer. It is estimated that a 100% EPR program for printed paper and packaging results in a 5-7% increase in the cost of groceries and packaged products for the average household.
 - There is no evidence that shows a steward led EPR program will lead to either increased recycling or cost containment.

III. The scope of the report was determined before the new paradigm introduced by COVID-19, and lacks consideration of crucial new issues.

- A. Single-Use Plastics:** The conversation around single-use plastics and reusables must consider new factors brought about by the pandemic. These issues are still evolving, and many governments have already changed policies. More study on this issue is necessary as more information becomes available. Industry and mainstream reporting capture the issue:
- <https://www.wastedive.com/news/coronavirus-single-use-plastic-bag-reusables-health/575353/>
 - <https://www.foodpackagingforum.org/news/covid-19-challenging-epr-and-single-use-legislation>
 - <https://www.wired.com/story/coronavirus-pandemic-recycling-crisis/>
- B. Essential Service:** COVID-19 has also illustrated the importance of essential services and workers. In March of 2020, UTC regulated solid waste collection companies quickly moved to amend tariffs and add new language to maintain maximum continuity of service during the public health crisis. Delegation of an essential service away from government to board of industry consultants requires additional consideration now.

IV. Recycling can be improved, and goals can be met under the existing regulatory structure.

WRRRA supports a multi-faceted approach to managing plastics packaging within the existing regulatory structure. More so than any other policy, developing strong markets for Washington's recyclables will ensure the long term environmental and economic sustainability of Washington's excellent recycling system. Mandated post-consumer recycled content (PCR) in packaging will create markets for recyclables. Education, outreach, and other contamination reduction will ensure our recyclables retain their value. Honesty in plastic packaging labeling will help reduce consumer confusion. All of these policies, and more, can be accomplished within the time-tested regulatory structure.

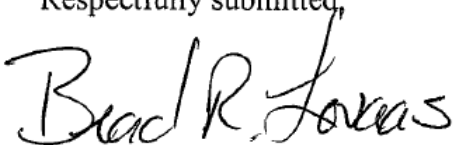
EPR will not dramatically improve recycling. Plastic packaging made of resins #1 and #2 is collected through most curbside recycling programs and the materials have markets. Plastics #3-7 lack markets and represent less than 1% of the waste stream by weight and less than 0.1% of greenhouse gas (GHG) reductions from recycling. Nearly 90% of GHG reduction benefits from recyclables collected through municipal solid waste systems are from fiber (including paper and old corrugated cardboard or OCC). The increased system costs of collection and processing marginal materials requires substantial investment with almost no measurable environmental benefit ([See 2018 Waste Management Sustainability Report](#)). An EPR program will not change these basic realities.

The plastic packaging industry should not have operational control over Washington's solid waste system. A recent PBS Frontline investigation titled "Plastic Wars" delved into the history of plastics recycling in the United States. In the late 80s and early 90s, concern was growing over single-use plastics and the packaging industry undertook a national lobby effort. The goal: brand single use plastic packaging as recyclable and thus environmentally friendly. Washington adopted RCW 70.95F, which requires the "chasing arrows" or "recyclable" symbol on plastics packaging in 1991 along with similar statutes in states across the nation at the time. This has led to widespread consumer confusion while producers continue to ignore recyclability in product design. The plastic packaging industry has continued to produce difficult to recycle packaging without purchasing the material back to create markets.

Washington is already a national leader in diverting materials from our landfills. Real recycling is much more than diversion at the curb, and a report from BC financial institutions estimates that the total diversion rate for BC was 40% in 2016. The Department of Ecology estimates that the comparable number for Washington was 47.59% in 2016. Washington is already surpassing BC's rate and has a more sophisticated and transparent reporting system.

Product stewardship programs that help create markets for recycled material can help ensure the long-term sustainability of Washington's recycling system. EPR programs that would replace Washington's existing system and take away local government control of essential public services and give control to industry groups will undermine Washington's excellent solid waste and recycling system.

Respectfully submitted,



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Executive Director