

June 24, 2026

Washington State Department of Ecology
Solid Waste Management Program
Attn: Recycling Reform Act
P.O. Box 47600
Olympia, WA 98504-7600
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**Re: Washington Retail Association Comments on Draft Rule Language, Chapter 173-950 WAC
(Recycling Reform Act, Chapter 70A.208 RCW)**

To the Recycling Reform Act Rulemaking Team:

The Washington Retail Association (WR) appreciates the opportunity to comment on the Department of Ecology's (Department) draft rules implementing the Recycling Reform Act, Chapter 70A.208 RCW, set out in draft Chapter 173-950 WAC. WR represents retailers of all sizes across Washington State, from small, locally owned stores to national brands. Our members sell and distribute covered materials throughout the state, fill service packaging at the point of sale, and in some cases offer private label or store-brand products. As a result, the rules adopted under this chapter will directly shape retailers' compliance obligations, costs, and day-to-day operations.

Below is a high-level overview of WR's concerns. However, accompanying this letter will be detailed, specific comments, questions, and suggested edits as inline comments within the marked-up copy of the draft rule language. We respectfully ask the Department to review that markup together with this letter.

High-Level Concerns

- 1. Producer status for private-label and imported goods:** The draft does not address how producer responsibility is allocated for private-label and store-brand products, or for imported and foreign-brand goods, where a retailer can become the responsible producer by default. WR asks that the rule provide this specificity, including the documentation needed to allocate or confirm obligation. (RCW 70A.208.020(29) and (29)(vi)(A); WAC 173-950-010, -020.)
- 2. Scope clarity — define "consumer market" and confirm B2C-only coverage:** "Consumer market" is undefined; the program is residential and should not reach business-to-business or transport packaging the statute does not cover. The Department should also confirm who is the responsible producer for point-of-sale service packaging. (WAC 173-950-030(a)(i) and (a)(iii).)
- 3. Narrow the market-prohibition trigger to the statutory standard:** As drafted, a producer "not compliant with this chapter" could be barred from introducing covered materials — far broader than the statutory standard, which reserves that consequence for a producer that is not a member in good standing or has not submitted an individual plan. WR treats this as a high-priority concern. (WAC 173-950-100(4); RCW 70A.208.040.)

4. **Preserve producer choice among compliance pathways:** Approval of an alternative collection program should not compel producers of a material category into a single, potentially competitor-controlled program; the PRO and individual-plan pathways should remain available. (WAC 173-950-2XX(3)(a).)
5. **Preserve compliance already completed:** The final rule should expressly credit actions producers have already taken under the statute (PRO appointment, membership, and 2026 reporting) and avoid conflicting, duplicative, or retroactive dates. (WAC 173-950-100(1).)
6. **Definitional Alignment Between the Draft Rule and the Statute:** The rule introduces several undefined-in-statute terms — including "primary packaging," "secondary packaging," "tertiary packaging," and "alternative collection program" — and expands "covered material" with a new 50% paper-by-volume threshold not found in the law. It also renames the statutory term "individual plan" as "individual program plan," creating unnecessary inconsistency between the rule and the RCW.

Provisions WR Supports

WR would also like to communicate our support for several provisions and urges their retention:

- Use of prorated national data where state-specific data is not feasible (WAC 173-950-100(1)(a)(ii))
- The voluntary, compensated model for retail host sites (WAC 173-950-2XX(4) and (5))
- The health-and-safety exclusion pathway (WAC 173-950-510)
- The single-PRO program structure, which reduces fragmentation for multistate retailers.

WR appreciates the Department's work implementing the Recycling Reform Act and welcomes the opportunity to discuss the feedback provided in greater detail, answer any questions you may have, and to serve as a resource as the rulemaking proceeds.

Sincerely,

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