



Circular Action Alliance Washington LLC

June 24, 2026

Chris Fredley, Ecology SWMP Program Rule Coordinator
Solid Waste Management Program
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Submitted via Public Comment Form online at:
<https://ecology.commentinput.com/?id=HBuQZ3h6t>

Re: Recycling Reform Rulemaking – Chapter 173-950 WAC – Comment Period #1

Dear Mr. Fredley,

Circular Action Alliance (CAA) thanks the Department of Ecology (Department) for the opportunity to submit comments on the development of draft rule concepts and language under chapter 173-950 Washington Administrative Code (WAC), Solid Waste – Packaging and Paper Products – Producer Responsibility. We share the Department's goals of implementing an effective and equitable producer responsibility program in Washington. We are offering the following comments to clarify and strengthen the regulatory framework.

CAA is a U.S. Producer Responsibility Organization (PRO) dedicated to implementing effective Extended Producer Responsibility (EPR) programs for packaging and paper products. As a nonprofit, producer-led organization, CAA is committed to helping producers comply with EPR laws, delivering harmonized best-in-class compliance services and working with governments, businesses, and communities to reduce waste and recycle more. CAA was founded in 2022 and has 24 founding members representing the food, beverage, consumer goods, foodservice and retail industries. CAA was approved by the Department to serve as the PRO for Washington's EPR program under RCW 70A.208.060.

Our organization is committed to advancing circular economy solutions through collaborative, producer-led EPR programs. A well-structured producer responsibility system can drive meaningful improvements in recycling, reuse and composting while reducing environmental impacts.

In the pages that follow, we provide general and specific comments on the draft regulatory language following Ecology's rulemaking advisory committee meeting #1 and during Comment Period #1, organized by section for ease of reference. We are available to discuss these comments further and to support the successful implementation of Washington's producer responsibility program.



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Thank you for considering these comments and for the proactive engagement with interest holders throughout the development process. We value our collaborative relationship with the Department and are committed to supporting the effective launch and operation of Washington's EPR program.

Sincerely,



Julie Gilbertson
Washington State Program Manager
Circular Action Alliance



Specific Comments by Section

Section 173-950-010 – Purpose

Section 010 (1) (2) “Purpose”

Regulatory Text

- (1) Chapter [70A.208](#) establishes an extended producer responsibility program for consumer packaging and paper products in Washington state. The program increases access to convenient and affordable recycling services, minimizes negative impacts to the environment, public health, and worker health and safety, and builds and expands on existing waste and recycling infrastructure.
- (2) This chapter implements chapter [70A.208](#) RCW, Solid Waste—Packaging and Paper Products—Producer Responsibility. This chapter establishes:
- (a) Procedures that the department and producer responsibility organizations use to oversee and administer the program;
 - (b) Fees to be paid to the department to cover the agency's full costs of providing oversight of the implementation and administration of the program and enforcing chapter [70A.208](#) RCW and this chapter;
 - (c) Requirements to maintain public-private partnership between state, local government, and solid waste and recycling service providers.

CAA Response

Section (1) closely mirrors the findings – intent section of statute, RCW 70A.208.010, the Department should consider whether these redundancies are necessary. Furthermore, this section combines roles of the Department and PRO under (2)(a), which we recommend referencing separately and distinctly, not combined to provide clarification between the regulator and implementor roles respectively and for consistency with statute, which refers to each entity’s duties or responsibilities separately. We recommend changing ‘full’ to ‘all’ in (2)(b) to align to statute.

CAA Recommendation

Revise the text as follows:

- ~~(1) Chapter [70A.208](#) establishes an extended producer responsibility program for consumer packaging and paper products in Washington state. The program increases access to convenient and affordable recycling services, minimizes negative impacts to the environment, public health, and worker health and safety, and builds and expands on existing waste and recycling infrastructure.~~



- (2) ~~This chapter implements~~To support implementation of chapter [70A.208](#) RCW, Solid Waste—Packaging and Paper Products—Producer Responsibility, ~~–This~~ chapter establishes:
- (a) Procedures that the ~~department and producer responsibility organizations~~uses to oversee, ~~and~~ administer and enforce the program;
 - (b) Procedures that producer responsibility organizations may use to implement and administer the program;
 - (c) Fees to be paid to the department to cover all of the agency's ~~full~~ costs of providing oversight of the implementation and administration of the program and enforcing chapter [70A.208](#) RCW and this chapter;
 - (d) Requirements to maintain public-private partnership between state, local government, and solid waste and recycling service providers.

Section 173-950-020 – Applicability

Section 020 (3), (4), (5), (6) “Applicability”

Regulatory Text

This chapter applies to the following, as defined in this chapter and in chapter [70A.208](#) RCW:

- (1) Any producer of covered materials;
- (2) Any producer responsibility organization;
- (3) Any service provider who collects, transfers, transports, sorts, processes, recovers, prepares, or otherwise manages covered materials for an approved plan;
- (4) Any entity that sells, offers for sale, distributes, or makes available for sale covered materials in Washington state; or
- (5) Any entity that chooses to serve as a covered material drop-off location or collection site, or offers to host a collection event
- (6) Any group of producers that manages an alternative collection plan.

CAA Response

The section combines elements of the statutory definitions of “covered services” and “service provider” within subsection (3), which may create ambiguity regarding the entities subject to requirements under this chapter. To improve clarity and support implementation, CAA recommends specifying that such entities must be registered with the Department, consistent with other regulated entities.



Subsection (4) appears to broaden applicability beyond the statutory definition of “producers” by including entities that may be explicitly exempt under statute (e.g., governmental entities, nonprofit organizations and de minimis producers). As currently drafted, this provision may unintentionally expand regulatory obligations beyond those established by the legislature and create ambiguity regarding the scope of regulated entities across the supply chain. CAA recommends striking subsection (4) to avoid repeating statute.

CAA also notes that the entities described in subsection (5) are functionally encompassed within the definition of service providers under subsection (3) and in statute. Retaining both provisions may create duplicative or overlapping categories. CAA recommends removing subsection (5) to reduce potential confusion.

Finally, subsection (6) would benefit from minor clarifying edits to ensure that applicability is clearly tied to producers participating in an approved alternative collection plan.

CAA Recommendation

Revise the text as follows:

- (1) Any producer of covered materials;
- (2) Any producer responsibility organization;
- (3) Any registered service provider who collects, transfers, transports, sorts, processes, recovers, prepares, or otherwise manages covered materials for an approved plan; or
- ~~(4) Any entity that is not exempt and that sells, offers for sale, distributes, or makes available for sale covered materials in Washington state; or~~
- ~~(5) Any entity that chooses to serve as a covered material drop-off location or collection site, or offers to host a collection event; or~~
- (6) Any group of producers with a petition granted that manages an approved alternative collection plan.

Section 173–950–030 –Selected Definitions

Section 030 “Selected Definitions”

Regulatory Text

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

“Alternative collection program” means a program that provides for the collection of a distinct material, packaging, or product type through collection methods other than commingled residential collection or public place collection.



"Individual program plan" means a plan submitted by a producer that registers with the department as a producer responsibility organization to address the covered materials of the producer.

"Primary packaging" means packaging that is most closely containing the product, food or beverage.

"Secondary packaging" means any packaging intended to bundle, sell in bulk, brand, or display the product or that is not primary packaging or tertiary packaging.

"Tertiary packaging" means packaging intended to protect or facilitate the delivery of the product during transportation.

"Covered material" means packaging and paper products introduced into the state.

(a) Covered material includes:

(i) Primary, secondary, and tertiary packaging intended for the consumer market;

(ii) Components and elements that are supplemental, auxiliary, or subordinate and integrated into packaging, including those components and elements that are directly attached to a product and are part of the packaging design functionally or aesthetically, facilitate the packaging function, or facilitate the delivery including through identification of the product. This includes materials used to affix packaging components to one another;

(iii) Service packaging designed and intended to be filled at the point of sale, including:

(A) Carry-out bags;

(B) Bulk food bags; and

(C) Take-out and home delivery food service packaging;

(iv) Beverage containers

(v) Packaging for reuse or refill, as defined in this chapter;

(vi) Secondary and tertiary packaging associated with exempt primary packaging.

(vii) Paper products sold, distributed to or intended for use by a consumer for noncommercial purposes; and



(viii) Multimaterial products that are composed of at least 50% paper by volume.

(b) "Covered material" does not include exempt or excluded materials.

CAA Response

CAA recommends clarifying what is meant by "...unless the context clearly requires otherwise" at the beginning of this section by either removing the text or revising the text to clarify where applicability does not apply. For the definition of "alternative collection program," CAA recommends a few additions to align with statute, and for the definition of "individual program plan" we suggest adding clarifying words.

Following preliminary discussion in the rulemaking committee meeting #1, CAA does not agree many of these new definitions serve to improve clarity with determining covered materials and producer obligations. CAA recommends the removal of many proposed packaging definitions which create confusion by adding unnecessary specificity to the statutory definition of covered materials, such as proposed (a)(viii) that covers materials within paper products. The examples, which appear to be meant as illustrative, may be identified as limiting rather than clarifying. Instead, the Department can provide guidance with examples, which reduces administrative burden and allows for changes over time. CAA provides detailed guidance on covered materials to producers, and we have found periodic updates to guidance are necessary to address new producer questions.

CAA Recommendation

Revise the text as follows:

The definitions in this section apply throughout this chapter ~~unless the context clearly requires otherwise.~~

"Alternative collection program" means a program implemented under an approved plan for each covered material on the department's alternative collection list, under RCW 70A.208.090, that provides for the collection of a distinct material, packaging, or product type through collection methods other than commingled residential collection or public place collection.

"Individual program plan" means a plan submitted by a single producer that registers with the department as an individual producer responsibility organization to address the covered materials of the single producer.

~~"Primary packaging" means packaging that is most closely containing the product, food or beverage.~~

~~"Secondary packaging" means any packaging intended to bundle, sell in bulk, brand, or display the product or that is not primary packaging or tertiary packaging.~~



~~"Tertiary packaging" means packaging intended to protect or facilitate the delivery of the product during transportation.~~

"Covered material" means packaging and paper products introduced into the state.

~~(a) Covered material includes:~~

~~(i) Primary, secondary, and tertiary packaging intended for the consumer market;~~

~~(ii) Components and elements that are supplemental, auxiliary, or subordinate and integrated into packaging, including those components and elements that are directly attached to a product and are part of the packaging design functionally or aesthetically, facilitate the packaging function, or facilitate the delivery including through identification of the product. This includes materials used to affix packaging components to one another;~~

~~(iii) Service packaging designed and intended to be filled at the point of sale, including:~~

~~(A) Carry-out bags;~~

~~(B) Bulk food bags; and~~

~~(C) Take-out and home delivery food service packaging;~~

~~(iv) Beverage containers~~

~~(v) Packaging for reuse or refill, as defined in this chapter;~~

~~(vi) Secondary and tertiary packaging associated with exempt primary packaging;~~

~~(vii) Paper products sold, distributed to or intended for use by a consumer for noncommercial purposes; and~~

~~(viii) Multimaterial products that are composed of at least 50% paper by volume.~~

(b) "Covered material" does not include exempt or excluded materials.

Section 173-950-100 – Producer Duties

Section 100 (1), (2), (5) "Producer Duties"



Regulatory Text

This section applies to producers of covered materials.

(1) Beginning July 1, 2026, each producer must:

(a) Be a member of a producer responsibility organization registered in this state;

(i) Each producer must be a member in good standing with the producer responsibility organization under which they are registered by:

(A) Fulfilling the membership requirements;

(B) Paying the required fees;

(C) Providing all required information and data; and

(D) Meeting the producer responsibility organization timelines;

(ii) Each producer must report the data necessary to meet its plan obligations to the producer responsibility organization. The producer may use prorated national data if state-specific data is not available or feasible to generate;

(iii) Upon request of the department, each producer must make all data, documents, and records related to the calculation and payment of fees, recycling rates, collection rates, postconsumer-recycled-content rates, and any other materials necessary for the department to determine compliance with this chapter; and

(iv) Any producer intending to cease participation in a producer responsibility organization shall provide written notice to their producer responsibility organization and the department no later than 60 days before ceasing participation. This notice must include:

(A) The producer's name and any associated brands;

(B) The date the producer will cease participation; and

(C) The reason for ceasing participation.

(b) Be a member of a group of producers registered in this state to manage an alternative collection program during the first plan implementation period;

(i) Each producer must be a member in good standing with the group of producers implementing an alternative collection plan under which they are registered by:

(A) Fulfilling the membership requirements;

(B) Paying the required fees;

(C) Providing all required information and data; and

(D) Meeting the producer responsibility organization timelines;



(ii) Each producer must report the data necessary to meet its plan obligations to the group of producers implementing an alternative collection plan. The producer may use prorated national data if state-specific data is not available or feasible to generate;

(iii) Upon request of the department, each producer must make all data, documents, and records related to the calculation and payment of fees, recycling rates, collection rates, postconsumer-recycled-content rates, and any other materials necessary for the department to determine compliance with this chapter; and

(iv) Any producer intending to cease participation in an alternative collection program shall provide written notice to the group of producers implementing an alternative collection program and the department no later than 60 days before ceasing participation. This notice must include:

(A) The producer's name and any associated brands;

(B) The date the producer will cease participation; and

(C) The reason for ceasing participation; or

(c) Register as an individual producer responsibility organization that will implement an individual program plan under Section 110.

(2) Through (a), (b), or (c) of subsection (1) of this section, each producer must implement and finance a statewide program for their covered materials in accordance with this chapter that encourages redesign to reduce environmental impacts and human health impacts and that reduces generation of covered material waste through waste reduction, refill, reuse, recycling, and composting and by providing for the collection, transportation, and processing of used covered materials for reuse, recycling, and composting;

(3) Upon request of the department, a producer must submit documents or records to substantiate their exempt or de minimis status.

(4) Beginning March 1, 2029, a producer that is not compliant with this chapter may not introduce covered materials into the state.

CAA Response

CAA appreciates the Department's efforts to define producer participation pathways; however, several areas would benefit from additional clarification to support consistent implementation and alignment with statutory intent.

Participation pathways and flexibility clarification is needed to ensure that producers are not precluded from participating in a producer responsibility organization (e.g., CAA for the first plan implementation period) if certain covered materials supplied by a producer falls outside the scope of an alternative collection program. Producers should retain flexibility to meet obligations across multiple pathways where applicable.

Additional clarification is needed regarding the treatment of "minority producers," whose materials do not align with an alternative collection program proposed by a group of



producers. The rule should confirm that such producers are not effectively excluded from participation in a producer responsibility organization during the first plan implementation period.

Subsection (1)(b) would benefit from consistent terminology and structure when referring to “alternative collection programs” versus “alternative collection plans”.

CAA recommends ensuring alignment between regulatory requirements and existing producer registration, reporting and compliance processes to support feasible implementation.

CAA also recommends minor revisions to address scrivener’s errors, including cross-references and timeline language (e.g., subsection (1)(b)(i)(D) and subsection (1)(c)).

CAA Recommendation

Revise the text as follows:

This section applies to producers of covered materials.

(1) Beginning July 1, 2026, each producer must:

(a) Be a member of a producer responsibility organization registered in this state;

(i) Each producer must be a member in good standing with the producer responsibility organization under which they are registered by:

(A) Fulfilling the membership requirements;

(B) Paying the required fees;

(C) Providing all required information and data; and

(D) Meeting the producer responsibility organization timelines;

(ii) Each producer must report the data necessary to meet its plan obligations to the producer responsibility organization. ~~The producer may use prorated national data if state-specific data is not available or feasible to generate;~~

(iii) Upon request of the department, each producer must make all data, documents, and records related to the calculation and payment of fees, ~~recycling rates, collection rates,~~ postconsumer-recycled-content rates, and any other materials necessary for the department to determine compliance with this chapter; and

(iv) Any producer intending to cease participation in a producer responsibility organization shall provide written notice to their producer responsibility organization and the department no later than 60 days before ceasing participation. This notice must include:

(A) The producer’s name and any associated brands;

(B) The date the producer will cease participation; and



(C) The reason for ceasing participation.

(b) Be a member of a group of producers registered in this state to manage an alternative collection program during the first plan implementation period;

(i) Each producer must be a member in good standing with the group of producers implementing an alternative collection plan under which they are registered by:

(A) Fulfilling the membership requirements;

(B) Paying the required fees;

(C) Providing all required information and data; and

(D) Meeting the ~~producer responsibility organization~~ timelines for a group of producers with an approved alternative collection plan;

(ii) Each producer must report the data necessary to meet its plan obligations to the group of producers implementing an alternative collection plan. The producer may use prorated national data if state-specific data is not available or feasible to generate;

(iii) Upon request of the department, each producer must make all data, documents, and records related to the calculation and payment of fees, recycling rates, collection rates, postconsumer-recycled-content rates, and any other materials necessary for the department to determine compliance with this chapter; and

(iv) Any producer intending to cease participation in an alternative collection program shall provide written notice to the group of producers implementing an alternative collection program and the department no later than 60 days before ceasing participation. This notice must include:

(A) The producer's name and any associated brands;

(B) The date the producer will cease participation; and

(C) The reason for ceasing participation; or

(c) Register as an individual producer responsibility organization that will implement an individual program plan under Section 110.

(2) Through (a), (b), or (c) of subsection (1) of this section, each producer must implement and finance a statewide program for their covered materials in accordance with this chapter that encourages redesign to reduce environmental impacts and human health impacts and that reduces generation of covered material waste through waste reduction, refill, reuse, recycling, and composting and by providing for the collection, transportation, and processing of ~~used~~ covered materials for reuse, recycling, and composting;

(3) Upon request of the department, a producer must submit documents or records to substantiate their exempt or de minimis status.

(4) Beginning March 1, 2029, a producer that is not compliant with this chapter may not introduce covered materials into the state.



(5) Nothing in this section shall preclude a producer from their responsibility to be a member of the producer responsibility organization under (1)(a) if they introduce covered materials into the state that are not covered in an individual program plan or alternative collection plan for a group of producers.

Section 173-950-110 – Individual Producer Plan Requirements

Section 110 (1) “Individual Producer Plan Requirements”

Regulatory Text

This section applies to individual producers proposing to operate under an individual program plan.

(1) A producer intending to operate under an individual program plan must:

(a) By January 1 of 2028, and every five years thereafter, notify the department in writing of its intent to submit an individual program plan. The notification must include the producer name, producer brands, primary contact, contact information, and the total annual volume of covered materials introduced;

(b) By March 1 of that year, register with the department as a producer responsibility organization as required in Section XXX;

(c) By September 1 of that year, pay a one-time administrative and plan review fee as determined by the department in Section XXX.

(2) Through the coordinating body established under SECTION XXX, the producer must:

(a) Submit an individual program plan following the same requirements of Section XXX,

(b) Submit annual reports following the same requirements of Section XXX, and

(c) Pay their equitable producer responsibility organization fees to the department following the same requirements of Section XXX.

CAA Response

CAA recommends revising (1)(a) from “total annual volume...” to “total annual amount...” to account for weight or units for reusables. CAA supports (2)(c) equitable fees.

CAA Recommendation

Revise the text as follows:

This section applies to individual producers proposing to operate under an individual program plan.

(1) A producer intending to operate under an individual program plan must:

(a) By January 1 of 2028, and every five years thereafter, notify the department in writing of its intent to submit an individual program plan. The notification must



include the producer name, producer brands, primary contact, contact information, and the total annual ~~volume~~-amount (e.g., weight or units) of covered materials introduced;

(b) By March 1 of that year, register with the department as a producer responsibility organization as required in Section XXX;

(c) By September 1 of that year, pay a one-time administrative and plan review fee as determined by the department in Section XXX.

(2) Through the coordinating body established under SECTION XXX, the producer must:

(a) Submit an individual program plan following the same requirements of Section XXX,

(b) Submit annual reports following the same requirements of Section XXX, and

(c) Pay their equitable producer responsibility organization fees to the department following the same requirements of Section XXX.

Section 173-950-2XX – Alternative Collection Program Requirements

Section 2XX “Alternative Collection Program”

Regulatory Text

This section applies to groups of producers that develop and operate an alternative collection program during the first plan implementation period and producer responsibility organizations that develop and operate an alternative collection program.

(1) An alternative collection program must:

(a) Provide for a covered material included on the statewide collection list for alternative collection developed under RCW 70A.208.090;

(b) Be proposed by a producer responsibility organization, or during the first plan implementation by a group of producers with a petition granted by the department under RCW 70A.208.090(5) or a majority of producers of a unique product type whose packaging is designated for alternative collection;

(c) Meet the following level of convenience:

(i) Provide year-round, convenient, statewide collection opportunities, including at least one drop-off collection site located in each county;

(ii) Provide tiers of service for collection, convenience, number of drop-off collection sites, and additional collection systems based on:

(A) County population size;

(B) County population density; and



- (C) Each class of city or town under chapter [35.01](#) RCW;
- (d) Certify that materials are sent to responsible markets;
- (e) Use education and outreach strategies that can be expected to significantly increase consumer awareness of the program throughout the state; and
- (f) Accurately measure the amount of each covered material collected and the applicable performance target and statewide requirement.
- (2) An alternative collection program plan must include:
- (a) The number, type, and location of each collection opportunity, including a list of collection sites which may include special events, private sites, curbside, mail back, or backhauling must be provided to the department and posted on a publicly accessible website;
- (b) A description of how each of the program requirements in this subsection will be met;
- (c) Performance targets for each covered material, as applicable, to be managed through an alternative collection program;
- (d) Identification of alternative collection program siting for any program operations, including training, education and educational materials specific to that site, transportation, equipment, and reporting, with contractual approval between all parties; and
- (e) Other requirements identified by the department.
- (3) A producer responsibility organization or group of producers registered with the department to manage an approved alternative collection plan must:
- (a) Be exclusively responsible for management of the covered material covered by that plan;
- (b) Comply with all requirements applicable to a producer responsibility organization under this chapter, other than requirements determined by the department not to be relevant to the management of the covered materials identified for alternative collection.
- (4) The producer responsibility organization or group of producers implementing an alternative collection program must provide compensation for alternative collection program siting for any program operations, including training, education and educational materials specific to that site, transportation, equipment, and reporting, with contractual approval between all parties;
- (5) A retail establishment may choose to serve as a drop-off location or collection event as part of an alternative collection program, through mutual agreement with a producer responsibility organization or group of producers implementing an alternative collection program.

Statute	Draft rule language
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(2) An alternative collection program or programs for each covered material included on the alternative collection list must be provided under a plan. For purposes of the first plan implementation period, an alternative collection program may be proposed by a producer responsibility organization, a group of producers with a petition granted by the department under RCW 70A.208.090(5), or a majority of producers of a unique product type whose packaging is designated for alternative collection. A proposal under this subsection must be submitted at the same time as the plan, and is subject to the same approval process as the plan. An alternative collection program must: (a) Provide year-round, convenient, statewide collection opportunities, including at least one drop-off collection site located in each county; (b) Provide tiers of service for collection, convenience, number of drop-off collection sites, and additional collection systems based on: (i) County population size; (ii) County population density; and (iii) Each class of city or town under chapter 35.01 RCW;	(1) An alternative collection program must: (a) Be provided for each covered material included on the statewide collection list for alternative collection developed under RCW 70A.208.090; (b) Be proposed by a producer responsibility organization, or during the first plan implementation by a group of producers with a petition granted by the department under RCW 70A.208.090(5) or a majority of producers of a unique product type whose packaging is designated for alternative collection; (c) Meet the following level of convenience: (i) Provide year-round, convenient, statewide collection opportunities, including at least one drop-off collection site located in each county; (ii) Provide tiers of service for collection, convenience, number of drop-off collection sites, and additional collection systems based on: (A) County population size; (B) County population density; and (C) Each class of city or town under chapter 35.01 RCW; (d) Certify that materials are sent to responsible markets; (e) Use education and outreach strategies that can be expected to significantly increase consumer awareness of the program throughout the state; and (f) Accurately measure the amount of each covered material collected and the applicable performance target and statewide requirement. (2) An alternative collection program plan must include: (a) The number, type, and location of each collection opportunity, including a list of collection sites which may include special events, private sites, curbside, mail back, or backhauling must be provided to the department and posted on a publicly accessible website; (b) A description of how each of the program requirements in this subsection will be met;
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(c) Ensure materials are sent to responsible markets; (d) Use education and outreach strategies that can be expected to significantly increase consumer awareness of the program throughout the state; and (e) Accurately measure the amount of each covered material collected and the applicable performance target and statewide requirement. (3) A plan for an alternative collection program must include: (a) The number, type, and location of each collection opportunity; (b) A description of how each of the program requirements in (a) of this subsection will be met; and (c) Performance targets for each covered material, as applicable, to be managed through an alternative collection program. (4) Every subsequent needs assessment after the first needs assessment must include a review of alternative collection programs for each covered material on the statewide alternative collection list to determine if the program is meeting the criteria established in subsection (2) of this section.	(c) Performance targets for each covered material, as applicable, to be managed through an alternative collection program; (d) Identification of alternative collection program siting for any program operations, including training, education and educational materials specific to that site, transportation, equipment, and reporting, with contractual approval between all parties; and (e) Other requirements identified by the department. (3) A producer responsibility organization or group of producers registered with the department to manage an approved alternative collection plan must: (a) Be exclusively responsible for management of the covered material covered by that plan; (b) Comply with all requirements applicable to a producer responsibility organization under this chapter, other than requirements determined by the department not to be relevant to the management of the covered materials identified for alternative collection. (4) The producer responsibility organization or group of producers implementing an alternative collection program must provide compensation for alternative collection program siting for any program operations, including training, education and educational materials specific to that site, transportation, equipment, and reporting, with contractual approval between all parties; (5) A retail establishment may choose to serve as a drop-off location or collection event as part of an alternative collection program, through mutual agreement with a producer responsibility organization or group of producers implementing an alternative collection program.
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(5) A retail establishment may choose to serve as a drop-off location or collection event as part of an alternative collection program, through mutual agreement with a producer responsibility organization or group of producers implementing an alternative collection program.

(6) Any group of producers, other than the producer responsibility organization registered with the department, that manages an approved alternative collection plan during the first plan implementation period must:

(a) Be exclusively responsible for management of the distinct material, packaging, or product type covered by that plan and may thereby wholly or partially offset the producers' payment obligations under this chapter with respect to the distinct material, packaging, or product type only; and

(b) Comply with all requirements applicable to a producer responsibility organization under this chapter, other than requirements determined by the department not to be relevant to the group of producers as a result of the producers' need to only manage a distinct material, packaging, or product type rather than multiple types of materials, packaging, or product types.



CAA Response

CAA offers the following questions for the Department concerning draft regulations on alternative collection programs managed by an individual producer or groups of producers with a petition granted for an alternative collection program and plan.

- Do all producers have to join a group of producers' (LPMA dba Interchange 360) alternative collection program if they supply covered materials (i.e., lubricant/automotive packaging) into Washington? Or can they continue to report to CAA?
- If a producer has to report to a group of producers implementing an alternative collection program, it would be helpful for CAA to understand under the regulation what provides this authority? These questions have come forward in other US EPR states, so it is helpful to be able to provide this clarity to producers.
- Do producers have to continue to report to CAA for packaging that the alternative collection program does not manage (e.g., secondary or tertiary packaging, or for other covered materials such as primary packaging or paper products that the producers may supply)?
- Does "de minimis" continue to apply to all materials supplied (i.e., not a separate rate for those materials supplied under an alternative collection program as opposed to CAA)?
- Can the alternative collection program collect and manage materials that are not captured under the legislation (e.g., business-to-business materials) to fulfill their obligations or do all the materials collected need to be covered materials supplied to covered entities?

Section 173-950-300 – Service Provider Duties

Section 300 (1) "Service Provider Duties"

Regulatory Text

(1) Service providers receiving reimbursement from a producer responsibility organization or operating under an approved plan must:

- (a) Register annually with the department as required by 70A.208.070;*
- (b) Provide services as detailed in the approved producer responsibility organization plan for the covered materials on the statewide collection lists;*
- (c) Provide refill or reuse services for covered materials as detailed in the approved producer responsibility organization plan;*
- (d) Comply with the performance standards in the approved producer responsibility organization plan;*
- (e) Ensure covered materials are delivered to responsible markets;*



(f) Report required information to the producer responsibility organization and department required by chapter 70A.208 RCW and the approved plan; and

(g) Receive producer responsibility organization reimbursement for services and pass along savings to customers

CAA Response

The requirement under section (1)(e) for service providers to ensure covered materials are delivered to responsible markets is beneficial and aligned with other states, such as Oregon and Minnesota. CAA recommends the Department clarify the consequence and overseeing agency responsible for assessing penalties should covered materials not be sent to responsible markets. For reference, Oregon enables the Department of Environmental Quality to assess civil fines on service providers and the ability to revoke their operating permits should shipments continue.

Additionally, CAA would request the Department clarify the ultimate party responsible for ensuring that entities receiving covered materials are in fact responsible markets. RCW 70A.208.070 indicates that material recovery facilities must submit the certification proving shipping destinations are responsible markets.

Regarding producer responsibility organization (PRO) responsibilities, the PRO is indicated as responsible for providing assistance to service providers in identifying and using responsible markets per RCW 70A.208.040, and RCW 70A.208.150(2) indicates the Department may request the PRO provide third-party certification for achievement of performance targets. This combination of statute requirements seems to indicate the material recovery facility is responsible; however, the PRO responsibility for third-party certification creates a possibility the PRO should be assigned the role.

Other states indicate a party that is ultimately responsible for ensuring markets are verified. The statute seems to indicate the material recovery facilities are this party, although the language of “submitting certification” may be interpreted as being only responsible for sending to the Department or the PRO, not responsible for ensuring the certification is completed.

