

June 18, 2026

Mr. Chris Fredley

Solid Waste Management Program Rule Coordinator

Washington Department of Ecology

Dear Mr. Fredley:

Thank you for the opportunity to comment on the Washington Department of Ecology's (hereafter, Ecology's) draft rule language for chapter 173-950 Washington Administrative Code (WAC), which will guide Ecology's implementation of the Recycling Reform Act (RRA). The City of Vancouver offers the following comments on the May 27, 2026, draft rule language:

173-950-010 Purpose

1. Extended producer responsibility program vs. programs

RCW 70A.208.010(2)(a) states "It is the intent of the legislature to require extended producer responsibility programs for consumer packaging and paper products..." (emphasis added).

Proposed WAC 173-950-010(1) states "Chapter 70A.208 RCW establishes an extended producer responsibility program for consumer packaging and paper products..."

Comment: If the change from programs plural in statute to program singular in rule was unintentional, please correct.

2. Missing local government language from statute

Proposed WAC 173-950-010(1) includes most of the language at RCW 70A.208.010(2)(b), albeit rephrased. However, there is a statement at RCW 70A.208.010(2)(b) that does not have an equivalent in Proposed WAC 173-950-010(1) (see table below).

RCW 70A.208.010(2)(b)	Proposed WAC 173-950-010(1)
“It is intended that these programs be responsibly planned and funded in a manner that minimizes negative impacts to the environment and minimizes risks to public health and worker health and safety.”	“The program...minimizes negative impacts to the environment, public health, and worker health and safety,”
“It is also intended that these programs build and expand on the existing waste and recycling system's infrastructure...”	“The program...builds and expands on existing waste and recycling infrastructure.”
“It is also intended that these programs build and expand on the...reliance on the authority of local governments and the utilities and transportation commission in solid waste management.”	No equivalent statement in Proposed WAC 173-950-010.

Comment: Is the omission of the language regarding the authority of local governments and the utilities and transportation commission intentional? If so, please provide the reason for the omission. If not, please correct.

173-950-020 Applicability

3. Applicability of proposed rules to local governments contracting for covered services

RCW 70A.208.020(43) defines “service provider” as

“An entity that provides covered services for covered materials. A government entity that provides, contracts for, or otherwise arranges for another party to provide covered services for covered materials within its jurisdiction may be a service provider regardless of whether it provided, contracted for, or otherwise arranged for similar services before the approval of the applicable plan.”

RCW 70A.208.020(15) defines “covered services” as

“Collecting, transferring, transporting, sorting, processing, recovering, preparing, or otherwise managing for purposes of waste reduction, refill, reuse, recycling, composting, or disposal of contamination or residuals.”

The proposed rules state:

“This chapter [173-950] applies to the following, as defined in this chapter and in chapter 70A.208 RCW : [sic]... Any service provider who collects, transfers, transports, sorts, processes, recovers, prepares, or otherwise manages covered materials for an approved plan;”

A local government that contracts for covered services for covered materials is a service provider per RCW 70A.208.020(43). It is not a service provider that collects, transfers, transports, sorts, processes, recovers, prepares, or otherwise manages covered materials. Its contractor provides those covered services.

Comment: Is Proposed WAC 173-950 intended to apply to local governments who meet the statutory definition of service provider because they contract for covered services? If so, please revisit this language to ensure that it captures this set of service providers.

173-950-030 Selected Definitions

4. Alternative collection program

RCW 70A.208.090 states that Ecology must create four statewide collection lists, including a list of “materials determined to be suitable for residential recycling collection, **whether in a [sic] commingled or in a separate container**” (emphasis added).

The definition for “alternative collection program” in the proposed rule refers to “...collection methods other than **commingled residential collection** or public place collection” (emphasis added).

Comment: Statute does not require that all materials on the to-be-developed statewide residential recycling list be commingled. It permits some materials on the list to be collected in a separate container from other materials on the list. Why does the proposed definition for alternative collection program refer specifically to “commingled residential collection” instead of just “residential collection?”

173-950-100 Producer Duties

5. Deadline to be in “good standing”: Timeline discrepancies between statute and proposed rule

RCW 70A.208.040(2) states that “Beginning March 1, 2029, a producer that is **not a member in good standing with a registered [PRO]** or **has not submitted an individual plan** may not introduce covered materials into the state” (emphasis added).

Proposed WAC 173-950-100(1)(a)(i) states that “Beginning July 1, 2026, each producer **must be a member of a [PRO]** registered in this state; Each producer **must be a member in good standing** with the [PRO] under which they are registered by...” (emphasis added).

Proposed WAC 173-950-100(1)(c) states that “Beginning July 1, 2026, each producer **must register as an individual [PRO] that will implement an individual program plan** under Section 110.” (emphasis added).

Comment: Why has the proposed rule imposed a deadline of July 1, 2026, to be in good standing or submit an individual plan if statute allows a producer that has done neither to introduce covered materials until March 1, 2029?

Comment: What is the difference between submitting an individual plan (the statutory requirement to introduce covered materials beginning March 1, 2029) and registering as an individual PRO (the proposed rule requirement to introduce covered materials beginning March 1, 2029)? Why is the requirement in the proposed rule not identical to the requirement in statute? Would this discrepancy between statute and rule limit or complicate enforcement?

6. Missing a verb

Proposed WAC 173-950-100(1)(a)(iii) states:

“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.”

Comment: Should “must make” be changed to “must make available to the department” or similar? As written, the proposed rule just states that each producer must make data, documents, and records.

7. Missing “or”

Comment: Is the intent of the proposed rule that, beginning July 1, 2026, each producer must follow one of these three paths:

- a. be a producer responsibility organization (PRO) member (173-950-100(1)(a)),
- b. be part of an alternative collection program (173-950-100(1)(b)), or
- c. register as an individual PRO (173-950-100(1)(c))?

If so, the proposed rule could be clearer that these are three distinct options, and that a producer does not need to do all three things. For example, there is an “or” after Proposed WAC 173-950-100(1)(b)(iv)(c), but not after Proposed WAC 173-950-100(1)(a)(iv)(C).

8. Replace “Section 110” with an RCW citation

Proposed WAC 173-950-100(1)(c) states that a producer could “Register as an individual producer responsibility organization that will implement an individual program plan under Section 110.”

Comment: For consistency with the rest of the proposed rules, please replace “Section 110” with “RCW 70A.208.100.”

9. Being in good standing vs. complying with the chapter

RCW 70A.208.040(2) states that “Beginning March 1, 2029, a producer that is **not a member in good standing** with a registered [PRO] **or has not submitted an individual plan** may not introduce covered materials into the state” (emphasis added).

Proposed WAC 173-950-100(4) states that “Beginning March 1, 2029, a producer that is **not compliant with this chapter** may not introduce covered materials into the state.”

Comment: Proposed WAC 173-950-100(1)(a)(i) defines what a producer must do to be in good standing.

Proposed WAC 173-950-100(1)(c) states that a producer must implement an individual program plan if they have neither registered with a PRO nor registered with a group of producers implementing an alternative collection program.

For consistency with statute, the March 1, 2029, deadline should only apply to producers who have not met the requirements of Proposed WAC 173-950-100(1)(a)(i) or Proposed WAC 173-950-100(1)(c). The rest of Proposed WAC 173-950-100 is not applicable to determining whether a producer is in good standing or whether they have submitted an individual plan. Therefore, to be consistent with statute, the rest of Proposed WAC 173-950-100 should not be applicable to determining whether a producer may introduce covered materials into Washington beginning March 1, 2029.

173-950-110 Individual Producer Plan Requirements

10. Use of “that year”

Proposed WAC 173-950-110 creates a timeline that a producer intending to operate under an individual program plan must follow. Proposed WAC 173-950-110(1)(a) refers to “January 1 of 2028 and every five years thereafter.” Proposed WAC 173-950-110(1)(b) and Proposed WAC 173-950-110(1)(c) refer to a “March 1 of that year” and a “September 1 of that year,” respectively.

Comment: “That year” is too ambiguous. Please replace each instance of “that year” with a calendar year.

11. January vs. October

RCW 70A.208.040(3)(c) states that “A [PRO] must...By **October 1, 2028**, and every five years thereafter, submit a plan that meets the requirements of this chapter to the department for approval” (emphasis added).

Proposed WAC 173-950-110(1)(a) states that “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...” (emphasis added).

Comment: Why is the deadline for producers operating under an individual program plan different than the deadline for a PRO?

12. No annual May 1 registration fee

RCW 70A.208.030(4) states:

“By September 1, 2026, a [PRO] must submit a one-time payment to the department, and each May 1st thereafter, a [PRO] must submit an annual registration fee to fund all costs of the department to implement, administer, and enforce this chapter, including the costs of the department of labor and industries to implement and enforce RCW [49.46.380](#).”

Comment: Is there not a similar requirement for individual producers proposing to operate under an individual program plan?

173-950-2xx Alternative Collection Program Requirements

13. “Provide for”

Proposed WAC 173-950-2XX(1)(a) states that “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.”

Comment: Provide *what/which services* for?

14. “First plan implementation”

Proposed WAC 173-950-2XX(1)(b) states “Be proposed by a producer responsibility organization, or during the first plan implementation by...”

Comment: For consistency with statute and with Proposed WAC 173-950-100(2), please change “first plan implementation” to “first plan implementation period.”

15. Consistency

The proposed rules define an alternative collection program as “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” (emphasis added).

Proposed WAC 173-950-2XX(1)(b) states “Be proposed by a [PRO], 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” (emphasis added).

Comment: When referring to materials that could be part of an alternative collection program, please use consistent phrasing throughout the rule. Please ensure that phrasing is consistent with the statute.

16. Responsible market certification

RCW 70A.208.100(2)(c) states that “An alternative collection program must...**Ensure** materials are sent to responsible markets” (emphasis added).

Proposed WAC 173-950-2XX(1)(d) states that “An alternative collection program must...**certify** that materials are sent to responsible markets” (emphasis added).

Comment: What is the certification process that an alternative collection program must follow? Will the final rule language for alternative collection program requirements cite a statute or rule that explains the certification process?

17. Grammar

Proposed WAC 173-950-2xx(2)(a) states “An alternative collection program plan **must include:** (a) The number, type, and location of each collection opportunity, **including a list** of collection sites...**must be provided to** the department and posted on a publicly accessible website;”

Comment: “Must include...including a list...must be provided to” needs grammatical correction.

18. Curbside collection in an alternative collection program

Proposed WAC 173-950-2xx(2)(a) states that “An alternative collection program plan must include...a list of collection sites which may include special events, private sites, **curbside**, mail back, or backhauling...” (emphasis added).

RCW 70A.208.090 states that Ecology must create four statewide collection lists: residential recycling collection (commingled or in a separate container), residential composting collection, public place, and alternative collection. Residential recycling and residential composting would both include curbside collection, and RCW

70A.208.090 presents residential recycling, residential composting, and alternative collection as distinct collection options. RCW 70A.208.090(4) states that “Except as described in (b) of [RCW 70A.208.090(4)] and subsection (5) of [RCW 70A.208.090], a material that is not identified as suitable for residential collection may not be collected as part of a residential recycling program.” The word “curbside” does not appear in RCW 70A.208.100 Convenience standards—Alternative collection.

Comment: Why is “curbside” proposed as a collection option for alternative collection? Is the intent to:

- a. Allow curbside collection of recyclables by entities other than the curbside residential hauler (e.g., doorstep recycling collection service)?
- b. Allow a material that is not required to be collected curbside statewide to be collected curbside in participating counties? I.e., allow curbside collection as a means of meeting the requirement that an alternative collection method be available in each county (RCW 70A.208.100(2))?

Why is curbside collection proposed as a collection method for an alternative collection program? How would curbside collection of materials on the alternative collection list differ from curbside collection of materials on the residential recycling or residential composting list?

19. Retail establishment as a service provider

Both statute and the proposed rule state that “A retail establishment may choose to serve as a drop-off location or collection event as part of an alternative collection program.”

Comment: Is a retail establishment that serves as a drop-off location or collection event for an RRA-covered material required to register with Ecology as a service provider? If a retail establishment does not enter into an agreement with the PRO, and does not register as a service provider with Ecology, could they still collect an RRA-covered material for recycling?

173-950-300 Service Provider Duties

20. Can service providers operate under an approved plan but not seek reimbursement?

Proposed WAC 173-950-300 imposes requirements on “Service providers receiving reimbursement from a [PRO] **or** operating under an approved plan” (emphasis added).

Comment: If a service provider intends to provide a covered service (e.g., collect a covered material for recycling), but does not intend to seek any reimbursement from a PRO, do they not need to register with Ecology as a service provider?

21. Providing services as detailed in a plan

Proposed WAC 173-950-300(1)(b) states that “Service providers receiving reimbursement from a [PRO] or operating under an approved plan must...**Provide services as detailed in the approved [PRO] plan** for the covered materials on the statewide collection lists” (emphasis added).

Comment: If a service provider is unable to recycle or compost a covered material on a statewide collection list developed per RCW 70A.208.090, are they ineligible for any reimbursement from the PRO?

For example, the City of Vancouver does not currently accept compostable packaging in its residential organics program because our composter produces certified organic compost and is therefore unable to accept that material. Let’s say compostable packaging, for example, is added to the statewide residential composting list. If a jurisdiction is unable to accept compostable packaging, but is able to accept all other materials on the four statewide lists, would that jurisdiction:

- a. be ineligible for *any* compensation from the PRO,
- b. be ineligible for any *compensation related to residential composting* from the PRO,
- c. be eligible for *reduced compensation* from the PRO compared to a jurisdiction that could accept all materials on the statewide composting list, or
- d. other?

22. Use of “and” rather than “or”

Proposed WAC 173-950-300 lists seven things that must be done by service providers receiving reimbursement from the PRO or operating under an approved PRO plan. Proposed WAC 173-950-300 uses “and” rather than “or.”

Comment: Does a service provider receiving reimbursement from the PRO have to meet *all* the requirements in WAC 173-950-300 or just the requirements applicable to the services they provide or contract for?

For example, per Proposed WAC 173-950-300(1)(d), a service provider receiving reimbursement from the PRO or operating under an approved plan must “provide refill or reuse services for covered materials as detailed in the approved [PRO] plan.” There are many registered service providers that do not provide or contract for reuse and refill services. Should those service providers begin planning to provide or contract for those services? Would “or” be better than “and” here?

23. “Savings”

Proposed WAC 173-950-300(g) states that service providers receiving PRO reimbursement or operating under an approved plan must “pass along savings to customers.”

Comment: Who determines what constitutes a “savings”: The PRO or a service provider seeking reimbursement? Will there be a standard method for calculating “savings?”

For example, does a service provider need to select a certain year’s expenses as the baseline, and calculate each year’s savings relative to that baseline? Or are savings just compared to the prior year? Or does any reimbursement from the PRO count as savings?

173-950-510 Exclusion Petition

24. “Delivered through the mail or in an email” is unnecessary

Proposed WAC 173-950-510(2) states that “Temporary exclusion petitions **delivered through the mail or in an email** must be submitted to the department one year prior to the submission of a plan and include...” (emphasis added).

Comment: The proposed wording makes it seem like, if one were to submit a temporary exclusion petition through a method other than mail or email (e.g., fax), they would not be subject to the timeline and requirements of Proposed WAC 173-950-510(2). Furthermore, Proposed WAC 173-950-510(3)(a) implies that a petition may

only be submitted by mail or email. Please delete “delivered through the mail or in an email.”

25. Petition statement

Proposed WAC 173-950-510(3) would require a petitioner to include a statement that ends with “I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

Comment: Please revise this statement to cite the statute or rule that specifically describes the possible penalties.

26. Determination of what

Proposed WAC 173-950-510(4) states “The department will make a determination on complete submitted temporary exclusion petition within 90 days.”

Comment: “Determination on complete” makes it sound like Ecology will determine in 90 days whether the application is complete. Is this the intent, or is the intent that Ecology will determine in 90 days whether to grant the petition? Please clarify what determination Ecology is making.

If you have any questions about these comments, please contact me or Matt Bucy at Matt.Bucy@cityofvancouver.us or 360-487-7166.

Sincerely,

Will Elder

Environmental Services Manager

Cc: Bethanie Velasco, Amanda Zodrow; Clark County
Josh Brown, Waste Connections
Pierce Louis, Dirt Hugger