



Washington State Department of Ecology

June 22, 2026

Via Electronic Submission (Ecology's [Public Comment Form](#))

Washington State Department of Ecology

P.O. Box 47600

Olympia, WA 98504-7600

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

To Whom It May Concern:

Imperial Bag & Paper Co. LLC (“Imperial Dade”) appreciates the opportunity to submit comments on the Washington State Department of Ecology (“Ecology”)’s draft rule language for Chapter 173-950 WAC. Imperial Dade appreciates that the current comment period concerns certain draft rule language on definitions, producer duties, individual producer plans, and alternative collection requirements within a broader rulemaking, and that there will be additional opportunities to provide public comments.

Generally, Imperial Dade supports Washington’s recycling and extended producer responsibility (“EPR”) objectives. To ensure the Recycling Reform Act is implemented in a manner that is workable for producers, the final rules should provide clear producer obligations, practical reporting requirements, reasonable compliance processes, and sufficient flexibility for companies operating in complex supply chains.

Imperial Dade is a distributor of foodservice, janitorial, sanitation, office supply, packaging, and related products. As an intermediary distributor, Imperial Dade emphasizes that clarity regarding producer responsibility, reporting scope, and fee-setting is particularly important.

Imperial Dade encourages Ecology to draw from the features of Colorado’s EPR program that have been comparatively workable for producers, including more concrete reporting categories, published dues information, low-volume options, and defined correction and compliance processes.

1. Ecology Should Clarify Which Rule Provisions Mirror the Statute and Which Create Additional Obligations

Imperial Dade respectfully requests that Ecology distinguish clearly between draft rule language that merely restates statutory requirements and draft rule language that creates new or additional regulatory obligations. Stakeholders reiterated the importance of this distinction at the May 27, 2026 Recycling Reform Rulemaking Committee Meeting.

This clarification is important for producers because it will help regulated entities identify which requirements are already fixed by statute and which implementation details remain open for comment, operational planning, or future guidance from Ecology or the producer responsibility



organization (“PRO”). Clear separation between statutory restatement and regulatory implementation will also help avoid confusion regarding the source and scope of producer obligations.

2. Ecology Should Clarify Contractual Assignment of Producer Responsibility

Washington’s statute expressly allows contractual assignment of producer responsibility where another person signs an agreement with the statutory producer, joins a registered PRO as the responsible producer, and the original producer provides written certification of that agreement to the PRO. Imperial Dade therefore requests that the rule acknowledge reliance on written certifications from upstream parties that have contractually assumed responsibility and provide guidance on the documentation sufficient to show that a higher-priority party exists or that responsibility has been assigned.

Imperial Dade also requests that Ecology work with the PRO to draft guidance that includes examples addressing common distributor, private-label, and multi-party supply-chain scenarios. Ecology’s materials indicate that stakeholders are already seeking clarification regarding first-distributor and private-label responsibility,¹ and practical examples would help producers determine their obligations consistently.

3. Ecology Should Require the PRO to Allow Workable Reporting Methodologies, Estimates, True-Ups, and Correction Windows

Imperial Dade appreciates that the draft rule recognizes that a producer may use prorated national data if state-specific data is not available or feasible to generate.² Ecology should build on this concept by requiring the PRO to allow producers registering and reporting through the PRO to use reasonable estimates, later true-ups, and correction windows. The policies of the currently approved PRO, Circular Action Alliance, (“CAA”)³ include certain structured validation, mandatory corrections, allowable adjustments, timelines for substantiation, and specific scenarios such as responsible-producer errors, acquisitions, divestitures, and refinement of estimated data.

Producers need time to build internal systems, allocate staff, evaluate supply-chain data, and validate methodologies before hard compliance consequences attach. This is particularly important during the program’s startup years, especially because CAA is has already required producers to register and submit simplified supply reports covering 2025 calendar year data.⁴ First-year grace periods and phased reporting have been requested in other state EPR programs, and similar flexibility is required in Washington as producers work through novel reporting requirements.

¹ Wash. Dep’t of Ecology, [Recycling Reform Act Webinar FAQs](#) (Fall 2025).

² Proposed WAC § 173-950-100(1)(a)(ii) (Wash Dept’t of Ecology, proposed May 27, 2026).

³ See Circular Action Alliance (“CAA”), [Reporting Policy](#) (June 2025); see also CAA, [Producer Delinquency Policy](#) (Apr. 2026).

⁴ See CAA, [Producer Resource Center](#), Table: 2026 EPR Producer Report Planning (showing Interim Producer Report: Simplified Reporting Categories due May 31, 2026).



Colorado provides a useful model for an EPR program that largely works for all parties involved. Ecology should consider similar principles for Washington, including a specific pathway for acquisitions or newly integrated businesses where historical packaging data is unavailable. Imperial Dade has already raised this operational problem in comments on both Colorado⁵ and California⁶ EPR regimes.

Washington's EPR regulations should expressly state that a producer is not subject to penalties, public noncompliance designation, or enforcement referral for a reporting inaccuracy where the producer: (i) timely registered or is actively completing registration, (ii) submitted a report using a reasonable documented methodology or estimate, (iii) attested to the report based on information reasonably available at the time, (iv) cooperated with CAA validation and substantiation requests, and (v) corrected or true-upped the report within the applicable correction, adjustment, or delinquency resolution period.

4. “Good Standing” Should Be Objective and Paired with Notice and Cure

In the draft Washington rule, “good standing” appears to depend on fulfilling membership requirements, paying required fees, providing required information and data, and meeting PRO timelines.⁷ Imperial Dade respectfully requests that Ecology avoid making producer market access depend on open-ended PRO requirements that may change without clear regulatory guardrails.

Washington's statute allows penalties only after written notification and at least 60 days following the notice sent by Ecology,⁸ which supports objective notice-and-cure principles before a producer is effectively treated as noncompliant. To align with this statutory mandate, Ecology should include regulatory language that defines “good standing” objectively and should pair any loss of good standing with clear notice, an opportunity to cure, and transparent escalation procedures. Codifying a cure period and an objective “good standing” concept in Washington's EPR regulations would promote fairness and compliance without creating unnecessary disruption for producers acting in good faith.

5. Ecology Should Harmonize Reporting Categories and Guidance with Workable Features of Existing State Programs

Washington's statute directs Ecology to promulgate rules that are harmonized with other states.⁹ Imperial Dade encourages Ecology to apply that mandate by drawing from the features of existing state EPR programs that are already working operationally for producers.

Imperial Dade has already asked CAA Washington to clarify how rulemaking will affect reporting categories and fee structure because the interim Washington early-fee framework consolidates

⁵ Imperial Dade Comments on Colorado Amended Program Plan, pp. 2–4 (Sept. 15, 2025).

⁶ Imperial Dade Comments on SB 54 Proposed Regulations, pp. 4–5 (Oct. 7, 2025).

⁷ Proposed WAC § 173-950-020 (Wash Dept't of Ecology, proposed May 27, 2026) (definition of “good standing”).

⁸ RCW 70A.208.230(1)(b).

⁹ RCW 70A.208.060(2)(j).



materials into only eight categories.¹⁰ Imperial Dade respectfully requests that Ecology publish category definitions, mapping examples, and timing guidance as soon as possible. CAA is already planning on using data from producers' simplified supply reports covering calendar year 2025 data submitted earlier this year to set Washington's early fees. Imperial Dade asks Ecology to publish this critical guidance before producers are required to submit the next round of reporting in 2027 that will impact regular program fees for the state's EPR program. Clear category guidance will facilitate multi-state compliance, reduce errors, and improve the reliability of producer data used to develop the Washington program. For example, The Colorado Department of Public Health and the Environment ("CDPHE") has published several guidance documents, including FAQs¹¹ and a Producer Determination Flowchart.¹² Imperial Dade requests similar types of guidance documents from Ecology for the Washington EPR program.

6. Ecology Should Protect Confidential Business Information and Limit Record Requests to Necessary Compliance Information

The draft rule authorizes Ecology to request data, documents, and records related to fee calculations, recycling rates, collection rates, postconsumer-recycled-content rates, and other materials necessary to determine compliance. Imperial Dade respectfully requests that Ecology confirm that such requests will be limited to information reasonably necessary for compliance review and that confidential business information may be protected through Washington's confidentiality process.

This clarification would be consistent with the broader PRO contracting framework, which treats producer reports and related information as confidential subject to legally required disclosures. Producers will be more likely to provide complete and reliable information if they understand the limits on record requests and the mechanisms available to protect competitively sensitive data.

7. Ecology Should Consider Simplified Reporting or Fee Pathways for Lower-Volume Producers

Washington currently has a de minimis threshold for businesses that introduced less than one ton of covered materials into Washington or have global gross revenue below \$5 million.¹³ Imperial Dade respectfully requests that Ecology evaluate whether additional simplified reporting or fee pathways may be appropriate for lower-volume participants beyond that statutory floor.

¹⁰ Imperial Dade Comments on CAA Consultation Survey (Feb. 26, 2026).

¹¹ Colorado Department of Public Health and the Environment ("CDPHE"), [Frequently Asked Questions: Producer Responsibility Program for Statewide Recycling](#) (last revised May 2026).

¹² CDPHE, [Producer Responsibility Determination Flowchart](#) (last updated Sept. 2024).

¹³ RCW 70A.208.020(16), (29)(b)(iii) (defining "de minimis producer" as a producer that introduced less than one ton of covered materials in its most recent fiscal year or has global gross revenue below \$5 million, subject to inflation adjustment beginning January 1, 2031; exempting "de minimis producers" from the definition of "producer").



Colorado offers a useful example because it provides graduated flat dues for producers supplying 10 tons or less, specifically to minimize administrative and reporting costs.¹⁴ Imperial Dade has previously supported low-volume accommodations in Colorado¹⁵ and Maine¹⁶ as fair and practical for smaller producers. A similar approach in Washington would help avoid disproportionate administrative burden while still ensuring participation in and funding for the program.

8. Ecology Should Preserve Meaningful Alternative Collection Options

Washington's statute allows a majority group of producers representing a distinct covered material or packaging type to petition Ecology, before the statewide lists are finalized, to designate that material for multiple modes of collection other than commingled residential collection depending on location.¹⁷ The statute also provides that producers managing an approved alternative collection plan may wholly or partially offset payment obligations for that distinct material or packaging type.¹⁸

The draft rule likewise contemplates alternative collection proposals and exclusive management responsibility for approved alternative collection programs.¹⁹ Imperial Dade respectfully requests that Ecology clarify the petition timing, evidentiary standards, and operational consequences of alternative collection so that producers with niche or hard-to-manage packaging types can realistically use this pathway.

9. Producer Exposure Should Not Result from PRO Noncompliance Outside the Producer's Control

Imperial Dade has previously commented that the PRO should notify producers of regulatory actions affecting their compliance status and use reasonable efforts to protect producers from penalties arising solely from the PRO's own noncompliance.²⁰

Imperial Dade recognizes that some of this concern may be addressed through contractual arrangements between producers and the PRO. However, as a rulemaking principle, producer liability should not turn on failures outside the producer's control where the producer has complied with its own reporting, payment, and cooperation duties. Ecology should consider rule language or guidance confirming that producer compliance determinations will account for whether the alleged noncompliance resulted from the producer's own conduct or from PRO-level failures outside the producer's control.

¹⁴ See Colo. Rev. Stat. Ann. § 25-17-705(4)(m); CAA Colorado [2026 Dues Schedule](#) (Oct. 13, 2025) (flat dues ranging from \$800 for 1–2.5 tons to \$3,600 for 7.5–10 tons).

¹⁵ Imperial Dade Comments on Colorado Amended Program Plan, pp. 3–4 (Sept. 15, 2025).

¹⁶ Imperial Dade Comments on Maine Packaging Materials List Types Proposed Rulemaking, p. 1 (Oct. 27, 2025).

¹⁷ RCW 70A.208.090.

¹⁸ RCW 70A.208.100.

¹⁹ Proposed WAC § 173-950-2XX (Wash Dept't of Ecology, proposed May 27, 2026).

²⁰ Imperial Dade Comments on CAA Consultation Survey, (Feb. 26, 2026); *see also* Imperial Dade Comments on Colorado Amended Program Plan, pp. 5–8 (Sept. 15, 2025).



Conclusion

Imperial Dade appreciates Ecology's work to develop rules implementing the Recycling Reform Act and supports the goal of building a more effective recycling system in Washington. Imperial Dade respectfully requests that Ecology revise the draft rule to expressly address the areas described above.

Imperial Dade's comments are aimed to promote targeted edits that will make the Washington rules more administrable and more consistent with features of Colorado's program that have been workable in practice, including clear categories, transparent dues mechanics, low-volume accommodations, and defined correction and compliance procedures.

Thank you for considering these comments. Imperial Dade looks forward to continued engagement with Ecology and other stakeholders as the Chapter 173-950 WAC rulemaking proceeds.

Sincerely yours,

Kevin McGrath

Kevin McGrath (Jun 22, 2026 11:18:36 EDT)

Kevin McGrath
Senior Vice President, Supply Chain and Replenishment
Imperial Dade
Ph: 301-437-7440 ext. 3183
kmcgrath@imperialdade.com

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