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May 28, 2026

Washington State Department of Ecology
Attention: Comment Processing
300 Desmond Drive SE
Lacey, Washington 98503

Re: Comment Requesting Exemption of Reusable Beverage Cups from EPR Program Under Chapter 70A.208 RCW

To whom it may concern:

Maverik, Inc. respectfully submits the following comments regarding rulemaking under the Recycling Reform Act, Chapter 70A.208 RCW. Maverik operates convenience retail locations throughout Washington and offers durable, reusable beverage cups designed and marketed for repeated consumer use.

We request that Ecology clarify through rule that reusable beverage cups are exempt from coverage under Washington's Extended Producer Responsibility (EPR) program.

I. Legislative Intent and Waste Hierarchy Considerations

The Recycling Reform Act is structured to address the environmental and fiscal impacts of single-use packaging that enters the residential waste stream and requires collection, sorting, and recycling or disposal. The statute's core objectives include:

- Reducing packaging waste;
- Improving recycling system performance; and
- Shifting the cost of managing packaging waste to producers.

Durable reusable beverage cups are categorically distinct from single-use packaging. They are not designed for immediate discard, do not enter curbside recycling systems as a routine matter, and do not impose systemic costs on the residential recycling infrastructure that the statute is designed to reform.

Washington's solid waste management framework, consistent with RCW 70A.205, prioritizes waste reduction and reuse above recycling. Including reusable cups within EPR obligations would conflict with this hierarchy by imposing regulatory costs on products that directly advance source reduction.

II. Statutory Structure – Exempt Materials

RCW 70A.208.020(19) defines "exempt materials" for purposes of the EPR chapter. While reusable beverage cups are not expressly enumerated within the statutory list, neither does the statute expressly classify durable reusable beverage containers as "packaging" in the functional sense contemplated by the Act.



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The EPR framework applies to packaging and paper products supplied to residential consumers that are intended to be discarded. Durable reusable cups do not function as packaging in the traditional sense; they are consumer products designed for repeated use over extended periods.

Ecology retains interpretive authority in rulemaking to clarify program scope consistent with statutory purpose. Where the statutory text is silent or ambiguous regarding durable reusable goods, it is appropriate for the agency to interpret coverage in a manner that advances legislative intent and avoids unintended regulatory consequences.

III. Consistency with Washington’s Postconsumer Recycled Content (PCRC) Rule

Washington’s Postconsumer Recycled Content (PCRC) requirements expressly exempt reusable beverage cups from coverage. That exemption reflects a clear state policy determination that durable refillable containers should not be regulated alongside single-use plastic packaging.

Maintaining consistency across Washington’s waste-reduction regulatory programs is important for regulated entities and for coherent policy implementation. Treating reusable cups as exempt under PCRC but subject to EPR would create regulatory inconsistency and undermine the state’s broader reuse policy goals.

Harmonization through an EPR exemption would ensure that Washington’s regulatory framework uniformly supports durable reuse systems.

IV. Colorado’s Express Exemption for Reusable Packaging

Colorado’s Producer Responsibility Program for Statewide Recycling Act (C.R.S. § 25-17-801 *et seq.*) and implementing regulations provide a useful comparison.

Under Colorado’s implementing regulations adopted by the Colorado Department of Public Health and Environment (CDPHE), “covered materials” subject to producer responsibility obligations exclude certain durable, reusable items. Specifically, Colorado’s rules implementing C.R.S. § 25-17-803 define “covered materials” as packaging materials that are “designed and intended to be discarded after a single use.” Durable materials designed for repeated reuse are not included within the definition of covered packaging.

Colorado’s regulatory framework further clarifies that:

- Packaging designed for reuse and refill systems is treated differently from single-use packaging; and
- Materials that are not intended to be disposed of after a single use are outside the scope of producer fee assessments.

As a result, reusable beverage cups are not subject to Colorado’s EPR fee structure.

Washington’s program shares structural similarities with Colorado’s model. Aligning Washington’s interpretation with Colorado’s treatment of reusable packaging would:

- Promote regional regulatory consistency;
- Reduce unnecessary compliance complexity for multi-state operators; and
- Support interstate harmonization of EPR implementation.



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V. Policy Implications and Unintended Consequences

Subjecting reusable beverage cups to EPR obligations would create several unintended effects:

- It would impose producer fees on products that reduce waste generation;
- It would disincentivize retailer-led reuse initiatives; and
- It would create a regulatory signal that reusable goods are equivalent to disposable packaging.

Such an outcome would be inconsistent with both the waste hierarchy and the Recycling Reform Act's stated objectives.

Exempting reusable beverage cups would instead:

- Encourage consumer adoption of reusable systems;
- Reduce single-use cup distribution;
- Advance source reduction; and
- Support Washington's broader sustainability goals.

VI. Requested Rule Clarification

Maverik respectfully requests that Ecology adopt rule language clarifying that:

"Durable beverage containers designed and marketed for repeated reuse, including refillable and reusable consumer beverage cups, are not considered covered packaging for purposes of Chapter 70A.208 RCW and are exempt from producer responsibility obligations."

Such clarification would be consistent with legislative intent, aligned with Washington's PCRC framework, and harmonized with Colorado's regulatory approach.

We appreciate Ecology's careful work implementing the Recycling Reform Act and welcome further engagement on this issue.

Thank you for your consideration of this comment.

Maverik, Inc.

A handwritten signature in blue ink that reads "M. Thomas Schofield".

M. Thomas Schofield
Chief Legal Officer and Secretary