

Comments on Draft WAC 173-950 — Recycling Reform Act Rule Language

Apple appreciates the opportunity to comment on the draft rule language for WAC 173-950 implementing Washington's Recycling Reform Act.

Apple is deeply committed to environmental stewardship and sustainable packaging. After a decade of innovation, each new Apple product now ships in 100 percent fiber-based packaging. In the past five years alone, we have avoided the use of more than 15,000 metric tons of plastic in our packaging. We have also reduced our overall greenhouse gas emissions by more than 60 percent compared with our 2015 baseline, and 30 percent of the materials we shipped in Apple products, by weight, came from recycled or renewable sources in 2025.

We support Washington's goals of expanding recycling access, reducing waste, and encouraging sustainable packaging design. As governing bodies around the world continue to regulate packaging and single-use plastics, we support clear and consistent regulatory frameworks that enable producers to meet emerging requirements across jurisdictions. We offer the following comments on the draft rule.

1. Clarify that "covered material" is limited to consumer-facing packaging (Section 173-950-030, pages 3–4)

The draft rule uses the phrase "intended for the consumer market" in subsection (a)(i) without defining what that means. The statute already provides a useful framework: RCW 70A.208.020(12) defines "covered entity" as a person or location that receives covered services for covered materials, including single-family residences, multifamily residences, and public places. We recommend that the rule clarify "intended for the consumer market" by reference to this existing statutory definition — packaging is intended for the consumer market if it is ultimately provided to or managed by a covered entity as defined in RCW 70A.208.020(12) at end of life. We also recommend revising the definition of "tertiary packaging" to add "to a covered entity" after "during transportation." This would clearly exclude business-to-business packaging such as corrugated shippers and pallets that never reach a covered entity.

2. Exempt labels and markings required by other laws (Section 173-950-030(a)(ii), page 3)

Subsection (a)(ii) includes components and elements that facilitate delivery "including through identification of the product," as well as "materials used to affix packaging components to one another." This could be read to include labels, stickers, or markings that are affixed to products to satisfy federal, state, or local regulatory requirements rather than to serve a packaging function. As producers navigate packaging and labeling regulations across multiple jurisdictions, clarity is important to avoid imposing EPR obligations on elements that producers are legally required to include and have no discretion to eliminate. We request adding: "This provision does not include labels, markings, or identification elements affixed to a product to satisfy a federal, state, or local regulatory requirement."

3. Clarify producer obligations across compliance pathways (Section 173-950-100(2), page 5)

The draft rule states: "Through (a), (b), or (c) of subsection (1) of this section, each producer must implement and finance a statewide program for their covered materials." We note that the statute itself frames this obligation more precisely. RCW 70A.208.040(1)(b) states that a producer must "through a producer responsibility organization, implement and finance a statewide program." The draft rule omits this "through a producer responsibility organization" framing, which could be read to place direct implementation obligations on individual producers regardless of their compliance pathway. We suggest revising this to: "Through participation in a producer responsibility organization under (a), an alternative collection program under (b), or an individual program plan under (c) of subsection (1) of this section, each producer must ensure that a statewide program is implemented and financed for their covered materials..." This would align the rule with the statute and accurately describe how each pathway operates.

4. Broaden exclusion petition grounds for regulatory-required packaging (Section 510, page 14)

The exclusion petition process should expressly accommodate packaging that a producer is required to introduce into the state as a direct result of compliance with another federal, state, or local law. We request adding a provision that a producer may petition for a temporary exclusion for any covered material or component required by compliance with another law. Additionally, the draft rule's evidence standard — requiring "validated

testing data or the sworn declaration of a qualified engineer" — is narrower than the statute's standard of "information that is necessary and sufficient for the department to make a determination" (RCW 70A.208.260(2)). For exclusions based on legal requirements, the supporting evidence would be the applicable statute or regulation itself rather than engineering data. We request aligning the evidence standard with the statute's "necessary and sufficient" language, expressly including regulatory determinations, legal citations, and applicable statutes as acceptable forms of evidence.

Apple is committed to working constructively with the Department of Ecology and fellow producers to implement the Recycling Reform Act effectively. We welcome the opportunity to discuss these comments further.

Submitted by Apple Inc.