

King County Solid Waste Division (Adrian Tan)

General comments:

- We commend Ecology's efforts to clarify regulations related to the Recycling Reform Act, but recommend only developing and adopting rules when there are clear gaps or lack of clarity in statute. Rules should assist the Agency in implementation, but not limit it and should allow for some flexibility during implementation. Ecology has the opportunity to develop and issue guidance documents to complement statutes and rules.
- We also understand Ecology's well-meaning intent to harmonize rules across states that have passed EPR for Packaging & Paper Products, but this should not restrict or alter statute.

Public Comment Submission:

Recycling Reform Rulemaking - Comment Period #1

Ecology is starting rulemaking for a new rule, chapter 173-950 WAC. This rule will guide implementation of the Recycling Reform Act, a law that creates an extended producer responsibility (EPR) program for materials used to package consumer goods and paper products.

Commenting open: May 14, 2026 12:00AM PT - June 24, 2026 11:59PM PT.

<https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-950>

Background

Passed by the Washington Legislature in 2025, the Recycling Reform Act ([Chapter 70A.208 RCW](#)) creates an EPR program for residential packaging and paper products.

- This program covers packaging for consumer goods sold to Washington residents such as boxes, bottles, and cans made from paper, plastic, metal, or glass.
- Paper products such as flyers, brochures, booklets, catalogs, magazines, and printed paper are also covered.
- The law requires producers of these products to join and fund a nonprofit Producer Responsibility Organization (PRO).
- Starting in 2030, local governments and recycling service providers will have most of their costs reimbursed by the PRO.

Rulemaking Process

1. **Rule Development:** March – September 2027:
 - a. There will be several public comment periods:
 - i. May 14 – June 24, 2026: Comment period #1
2. **Rule Proposal:** October 2027
 - a. October - December 2027: Public hearing & public comment period
3. **Rule Adoption:** April 2028
4. **Rule Effective:** May 2028

To submit your comment(s):

1. Submit comments through: <https://ecology.commentinput.com/?id=HBuQZ3h6t>
2. Enter contact information (required).
3. Enter comment(s) in the text area and / or submit attachments by uploading a file.

Any information (e.g., personal or contact) you provide on this comment form or in an attachment may be publicly disclosed and posted on the Internet.

KC SWD Comments

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- We commend Ecology's efforts to clarify regulations related to the Recycling Reform Act, but recommend only developing and adopting rules when there are clear gaps or lack of clarity in statute. Rules should assist the Agency in implementation, but not limit it and should allow for some flexibility during implementation. Ecology has the opportunity to develop and issue guidance documents to complement statutes and rules.
- We also understand Ecology's well-meaning intent to harmonize rules across states that have passed EPR for Packaging & Paper Products, but this should not restrict or alter statute.

TYPE OF COMMENT	SECTION	PROPOSED RULE	PROPOSED CHANGE	COMMENT
Editorial	173-950-020 Applicability	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	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	<i>Change "Any" to "A" or "An", e.g., "(1) A producer of covered materials"</i>

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		drop-off location or collection site, or offers to host a collection event; or (6) Any group of producers that manages an alternative collection plan.	drop-off location or collection site, or offers to host a collection event; or (6) Any group of producers that manages an alternative collection plan.	
Technical	173-950-020 Applicability	(4) Any entity that sells, offers for sale, distributes, or makes available for sale covered materials in Washington state;	(4) Any entity that sells, offers for sale, distributes, or makes available for sale introduces covered materials in Washington state;	<i>The term "Introduce" is used in statute and means to sell, offer for sale, distribute, or ship a product within or into this state.</i> <i>Use "introduce" or include "ship a product within or into WA state".</i> <i>(13)(a) "Covered material" means packaging and paper products introduced into the state.</i> <i>(29)(a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered material introduced into the state:</i>
Editorial	173-950-030 Selected Definitions	"Individual program plan" means a plan submitted by a producer that registers with the department as a producer responsibility organization to address the	"Individual program plan" means a plan submitted by a producer that registers with the department as a producer responsibility organization to address the	<i>No need to change the name - statute is sufficient.</i> <i>(21) "Individual plan" means a plan submitted by a producer that registers with the department as a producer</i>

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		covered materials of the producer.	covered materials of the producer.	<i>responsibility organization to address the covered materials of the producer.</i>
Technical	173-950-030 Selected Definitions	“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.	“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.	<i>Delete - Other states may use this terminology, but these are not part of statute in WA. If Ecology wants to clarify for producers, this can be provided in a guidance document.</i>
Technical	173-950-030 Selected Definitions	"Covered material" means packaging and paper products introduced into the state. (a) Covered material includes: (i) Primary, secondary, and tertiary packaging intended for the consumers market; (ii) Components and elements that are supplemental, auxiliary, or subordinate and integrated	"Covered material" means packaging and paper products introduced into the state. (a) Covered material includes: (i) Primary, secondary, and tertiary packaging intended for the consumers market; (ii) Components and elements that are supplemental, auxiliary, or subordinate and integrated	<i>This should be a guidance document, not rules. Packaging constantly changes - this would limit it.</i> <i>(25)(a) "Packaging" means a material, substance, or object that is used to protect, contain, transport, serve, or facilitate delivery of a product and is sold or supplied with the product to the consumer</i>

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		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	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	<i>for personal, noncommercial use.</i> “Multimaterial products that are composed of at least 50%

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		noncommercial purposes; and (viii) Multimaterial products that are composed of at least 50% paper by volume.	noncommercial purposes; and (viii) Multimaterial products that are composed of at least 50% paper by volume.	paper by volume” - <i>This is arbitrary and should instead be in a guidance document to define “covered materials type”</i>
Technical	173-950-030 Selected Definitions	(b) "Covered material" does not include exempt or excluded materials.	(b) "Covered material" does not include exempt or excluded materials.	<i>This does not seem necessary as it is already in statute</i>
Editorial	173-950-100 Producer Duties	(ii) Each producer must report the data necessary to meet its plan obligations to the producer responsibility organization.	<u>Each producer must provide the data or information necessary to the producer responsibility organization to meet its obligations.</u>	<i>Is there another of writing this?</i>
General	173-950-100 Producer Duties	(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>Is Alternative Collection Programs only allowed in the first plan implementation period?</i>
Editorial	173-950-100 Producer Duties	(iii) Each producer must report the data necessary to meet its plan obligations to the group of producers implementing an alternative collection plan.	<u>Each producer must provide the data or information necessary to the group of producers implementing an alternative collection plan to meet its obligations.</u>	<i>Is there another of writing this?</i>
Editorial	173-950-100 Producer Duties	(c) Register as an individual producer responsibility organization that will implement an individual program plan under Section 110.	(c) Register as an individual producer responsibility organization that will implement an individual program plan under Section 110.	<i>No need to change the name - statute is sufficient.</i>
Editorial	173-950-110 Individual Producer Plan	This section applies to individual producers	This section applies to individual producers	<i>No need to change the name - statute is sufficient.</i>

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	Requirements	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	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	

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		same requirements of Section XXX,	same requirements of Section XXX,	
Editorial	173-950-2XX Alternative Collection Program Requirements.	(e) Use education and outreach strategies that can be expected to significantly increase consumer awareness of the program throughout the state;	(e) Use education and outreach strategies that can be expected to significantly increase consumer awareness of the alternative collection program throughout the state;	
Technical	300 Service Provider Duties	(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		<i>Some of these requirements are only relevant for some service providers, e.g., local governments are rarely responsible for providing refill or reuse services or ensuring covered materials are delivered to responsible markets.</i> <i>Consider distinguishing between different types of service providers.</i>

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		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.		
Technical	510 Exclusion Petition	This section clarifies the petition process for producers to request a temporary exclusion for their covered material as allowed under RCW 70A.208.260 for reasons of public health or safety. (1) Producers, a group of producers, or a producer responsibility organization may submit a petition to the department for temporary exclusion of covered materials in specific packaging uses for reasons of health or safety for any of the following:	This section clarifies the petition process for producers to request a temporary exclusion for their covered material as allowed under RCW 70A.208.260 for reasons of public health or safety. (1) Producers, a group of producers, or a producer responsibility organization may submit a petition to the department for temporary exclusion of covered materials in specific packaging uses for reasons of health or safety for any of the following:	<i>This seems too detailed for rules. Better to just have a guidance document.</i> <i>Ecology's address and email may change - if that is the case then new rules would have to be made...</i>

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		(a) Raw meat products that are demonstrated to transfer pathogens to direct contact packaging; (b) Products regulated under the poison prevention packaging act of 1970; and (c) Products subject to requirements under federal laws that make their inclusion in the requirements of this chapter infeasible or inadvisable. (2) 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; (a) Producer name, mailing address, and contact information; (b) Products, brand names, and covered material categories and types for which the temporary exclusion is requested; (c) Documents that convincingly support, with validated testing data or the sworn declaration of a qualified engineer, as	(a) Raw meat products that are demonstrated to transfer pathogens to direct contact packaging; (b) Products regulated under the poison prevention packaging act of 1970; and (c) Products subject to requirements under federal laws that make their inclusion in the requirements of this chapter infeasible or inadvisable. (2) 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; (a) Producer name, mailing address, and contact information; (b) Products, brand names, and covered material categories and types for which the temporary exclusion is requested; (c) Documents that convincingly support, with validated testing data or the sworn declaration of a qualified engineer, as	

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		appropriate, the request for temporary exclusion; (d) Information necessary and sufficient for the department to make a determination of the technical feasibility of including the category of product, subcategory of product, or individual product in the program created by this chapter, and in recycling the packaging of the product or products; (e) An analysis of any potential risks to public health and safety associated with the inclusion of a category of product, subcategory of product, or individual product in the program created by this chapter, and in recycling the packaging of the product or products; (f) The progress made by producers in achieving the goals of this chapter, including by reducing the amount of packaging used with the products, increasing the recycled content of the product packaging, and increasing the ability of the	appropriate, the request for temporary exclusion; (d) Information necessary and sufficient for the department to make a determination of the technical feasibility of including the category of product, subcategory of product, or individual product in the program created by this chapter, and in recycling the packaging of the product or products; (e) An analysis of any potential risks to public health and safety associated with the inclusion of a category of product, subcategory of product, or individual product in the program created by this chapter, and in recycling the packaging of the product or products; (f) The progress made by producers in achieving the goals of this chapter, including by reducing the amount of packaging used with the products, increasing the recycled content of the product packaging, and increasing the ability of the	

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		products' packaging to be reused, composted, or recycled if appropriate; and (g) Any supplemental information or data requested by the department during review of the temporary exclusion petition. (3) Each petition must include the following statement signed by the petitioner or an authorized representative: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. (a) Each petition submitted: (i) by mail must be delivered to:	products' packaging to be reused, composted, or recycled if appropriate; and (g) Any supplemental information or data requested by the department during review of the temporary exclusion petition. (3) Each petition must include the following statement signed by the petitioner or an authorized representative: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. (a) Each petition submitted: (i) by mail must be delivered to:	

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		Department of Ecology Solid Waste Management Program Attn Recycling Reform Act P.O. Box 47600 Olympia, WA 98504-7600; or (ii) by email must be addressed to: recyclingreform@ecy.wa.gov (b) After receiving a petition, the department may request any additional information that reasonably may be required to evaluate the petition. (4) The department will make a determination on complete submitted temporary exclusion petition within 90 days. (5) The producer of a covered material that is temporarily excluded from the requirements of this chapter under this section must: (a) report, directly to the department in a form created by the department, the information related to the temporarily excluded product that is required to be reported to the department by producer responsibility organizations under RCW	Department of Ecology Solid Waste Management Program Attn Recycling Reform Act P.O. Box 47600 Olympia, WA 98504-7600; or (ii) by email must be addressed to: recyclingreform@ecy.wa.gov (b) After receiving a petition, the department may request any additional information that reasonably may be required to evaluate the petition. (4) The department will make a determination on complete submitted temporary exclusion petition within 90 days. (5) The producer of a covered material that is temporarily excluded from the requirements of this chapter under this section must: (a) report, directly to the department in a form created by the department, the information related to the temporarily excluded product that is required to be reported to the department by producer responsibility organizations under RCW	

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		70A.208.030 and 70A.208.200; and (b) Resubmit the temporary exclusion petition to the department one year prior to any plan revision, generally every five years.	70A.208.030 and 70A.208.200; and (b) Resubmit the temporary exclusion petition to the department one year prior to any plan revision, generally every five years.	

