

Consumer Technology Association (Ally Peck)



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June 24, 2026

Washington State Department of Ecology
Solid Waste Management Program
Attn: Recycling Reform Act Rulemaking
P.O. Box 47600
Olympia, WA 98504-7600

Re: Comments on Draft Rule Language for Chapter 173-950 WAC — Extended Producer Responsibility for Packaging and Paper Products (May 27, 2026 Rule Committee Draft)

Dear Department of Ecology Recycling Reform Act Rulemaking Team,

The Consumer Technology Association™ (CTA)¹ appreciates the opportunity to comment on the May 27, 2026 draft rule language for Chapter 173-950 WAC, implementing Chapter 70A.208 RCW. We support the program's goals of expanding recycling access and reducing packaging waste, and we offer the following comments to improve clarity, administrative workability, and consistency for producers obligated under these rules.

I. Overarching Comment: Exempt Secondary and Tertiary Packaging from Reporting When Primary Packaging Is Exempt

We request that the Department revise the rule to provide that where a product's primary packaging is exempt from the program, all associated secondary and tertiary packaging should likewise be exempt from reporting and compliance requirements.

As currently drafted, Section 173-950-030(a)(vi) expressly includes "*secondary and tertiary packaging associated with exempt primary packaging*" within the definition of covered material. This approach will create significant and unnecessary administrative burdens for producers. Producers do not routinely track secondary and tertiary packaging data at the SKU level for exempt products, and requiring them to do so for products otherwise excluded from the program is inconsistent with the underlying rationale for the exemption. We urge the Department to delete Section 173-950-030(a)(vi) or add a corresponding exclusion to Section 173-950-030(b) to make clear that all packaging tiers associated with an exempt product are equally exempt.

¹ As North America's largest technology trade association, CTA® is the tech sector. Our members are the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA represents over 1200 member companies ranging from large brand owners to retailers to small businesses as well as many members with offices, stores and business interests in the state. Our members have long been recognized for their commitment and leadership in innovation and sustainability, often taking measures to exceed regulatory requirements on environmental design, energy efficiency, and product and packaging stewardship.

II. Specific Comments on Section 173-950-030 (Selected Definitions)

1. Section 173-950-030(a)(i) — Define or Replace the Term “Consumer”

Section 173-950-030(a)(i) includes within covered material “[p]rimary, secondary, and tertiary packaging intended for the consumer market,” but the rule does not define the term “consumer.” This ambiguity could lead to inconsistent interpretations of which packaging falls within program scope, particularly for packaging that moves through business-to-business channels before reaching an end user.

We request that the Department either (1) add a definition of “consumer” to Section 173-950-030, or (2) replace “consumer” with “covered entities” — a term that can be defined with precision in the rule — to eliminate potential confusion about program scope.

2. Section 173-950-030(a)(ii) — Remove Reference to Aesthetic Function

Section 173-950-030(a)(ii) includes within covered material components and elements “integrated into packaging, including those components and elements that are directly attached to a product and are part of the packaging design functionally or aesthetically.” We request that the phrase “or aesthetically” be removed from this provision.

The inclusion of an aesthetic criterion significantly expands the scope of covered materials beyond what is typically understood as “packaging.” Packaging performs functional roles — containment, protection, facilitation of transport and sale — and EPR programs are generally designed around those functions. Incorporating aesthetic design elements as a basis for coverage creates interpretive uncertainty and could sweep in product components that serve primarily decorative purposes and that producers would not reasonably anticipate reporting under a packaging program.

3. Section 173-950-030(a)(viii) — Delete or Clarify Multi-material Products Definition

Section 173-950-030(a)(viii) defines as a covered material “[m]ultimaterial products that are composed of at least 50% paper by volume.” We request that the Department either delete this provision or substantially clarify its scope.

This definition raises a fundamental question: does a product itself — rather than its packaging — constitute a “covered material” if it is composed of majority paper? For example, would a composite product such as a paper-based binder, a padded mailer, or a paper-wrapped consumer good be considered a covered material independent of any packaging it may carry? If so, this would represent a significant and potentially unintended extension of the program beyond packaging and paper products in the conventional sense.

The definition as drafted risks creating confusion between what is “packaging,” what is a “paper product,” and what is simply a product made with paper as a component material. We urge the Department to clarify this provision with illustrative examples, or to delete it if it duplicates coverage already provided elsewhere in the definition of covered material.

III. Comment on Section 173-950-100(1)(a)(iii) — Recycling and Collection Rate Reporting

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4. Section 173-950-100(1)(a)(iii) — Recycling and Collection Rates Are Not Within Individual Producer Control

Section 173-950-100(1)(a)(iii) requires that, upon request of the Department, each producer must make available *"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."*

We respectfully note that recycling rates and collection rates are not metrics that an individual producer controls or generates. These figures are determined by downstream entities — including producer responsibility organizations, material recovery facilities, haulers, and service providers — based on system-wide program performance. An individual producer does not have independent access to this data and cannot be expected to calculate or certify it.

We request that the Department revise Section 173-950-100(1)(a)(iii) to clarify that the obligation to report recycling rates and collection rates rests with the producer responsibility organization or alternative collection program operator, not with individual producers. Alternatively, the rule should make clear that producers satisfy this requirement by directing the Department to data held by their PRO or program operator, rather than by generating or certifying that data independently.

IV. Conclusion

We appreciate the Department's work in developing these rules and the Rule Committee's ongoing engagement with stakeholders. We are committed to supporting a well-designed EPR program in Washington state and welcome the opportunity to discuss any of the above comments further.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ally Peck". The signature is stylized with a large, looping "A" and a cursive "Peck".

Ally Peck
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