

Lautenbach Recycling (Carolyn Moulton)

# LAUTENBACH RECYCLING

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June 24, 2026

Department of Ecology  
Solid Waste Management Program  
Attn: Chris Fredley, Recycling Reform Act  
PO Box 47600, Olympia, WA 98504-7600  
recyclingreform@ecy.wa.gov

## **RE: Public Comment — Chapter 173-950 WAC, Recycling Reform Act Rulemaking, Comment Period #1**

Dear Mr. Fredley,

Thank you for the opportunity to comment on Chapter 173-950 WAC. Lautenbach Recycling is a family-owned recycling company operating facilities and transportation services in Whatcom, Skagit, and San Juan Counties, including Skagit Soils (composting), San Juan Transfer Station, Lautenbach Recycling (curbside, commercial and construction and demolition recycling), and NWR Containers (storage container rentals). Our comments below are organized by WAC section.

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### **Section 173-950-030 Selected Definitions**

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#### **Comment 1: Service Packaging — Plastic Film Bags — WAC 173-950-030(a)(iii)**

*Rule text: Covered material includes carry-out bags, bulk food bags, and take-out/home delivery food service packaging.*

**Request:** Explicitly prohibit plastic film bags from commingled curbside collection programs.

Designating carry-out bags as covered materials must not require or authorize their inclusion in commingled curbside streams. Plastic film is a well-documented contaminant in MRF processing systems that causes equipment entanglement and reduces material quality. We request that the rules require plastic film to be managed exclusively through alternative collection pathways — such as drop-off or store take-back — and that no approved PRO plan may designate plastic film for commingled curbside collection without Ecology's specific written approval based on demonstrated processing capability.

#### **Comment 2: "Noncommercial Purposes" Qualifier — WAC 173-950-030(a)(vii)**

*Rule text: Covered material includes "paper products sold, distributed to or intended for use by a consumer for noncommercial purposes."*

**Request:** Clarify the "noncommercial purposes" qualifier for paper products.

This section limits covered paper products to noncommercial use, while no equivalent limitation appears in subsections (a)(i)-(a)(vi) governing packaging. The asymmetry is unclear. We request that Ecology confirm whether this distinction is intentional and, if not, revise subsection (a)(vii) to align with the treatment of other covered material categories.

#### **Comment 3: Multimaterial Products — WAC 173-950-030(a)(viii)**

*Rule text: Covered material includes "multimaterial products that are composed of at least 50% paper by volume."*

**Request:** Narrow the multimaterial products definition using technical recyclability criteria.

A 50% paper volume threshold does not account for whether the non-paper component is separable or recyclable. Paper-plastic laminates and foil-lined cups contain paper by volume but are not recoverable through standard MRF or composting processes. We request that Ecology establish technical criteria for qualifying multimaterial products based on documented recyclability in Washington's processing infrastructure or convene

a technical advisory process — including MRF operators and composting facilities — before this definition takes effect.

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## Section 173-950-100 Producer Duties

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### Comment 4: Prorated National Data — WAC 173-950-100(1)(a)(ii)

*Rule text: "The producer may use prorated national data if state-specific data is not available or feasible to generate."*

**Request:** Establish objective criteria for when prorated national data may be used.

Without guardrails, this provision allows producers to understate Washington-specific material volumes using national averages that do not reflect local recycling conditions — undermining fee calculations and performance targets. We request that Ecology: (1) define when state-specific data is "not available or feasible" rather than leaving this to producer discretion; (2) require producers to document and disclose their proration methodology; and (3) establish an audit process for Ecology to reject prorated data inconsistent with available Washington-specific information.

### Comment 5: Confidentiality of Business Data — WAC 173-950-100(1)(a)(iii)

*Rule text: Upon request, producers must provide all data related to fees, recycling rates, collection rates, and postconsumer-recycled-content rates.*

**Request:** Add data confidentiality protections for producers and service providers.

Fee calculations and recycling rates may constitute confidential commercial information. We request that Ecology specify: (1) which data categories will be withheld from public disclosure under RCW 42.56.270; (2) how individual business data will be anonymized in public-facing reports; and (3) what safeguards prevent commercially sensitive information from being accessed by competitors through PRO data sharing.

### Comment 6: Enforcement Against Out-of-State Producers — WAC 173-950-100(4)

*Rule text: "Beginning March 1, 2029, a producer that is not compliant with this chapter may not introduce covered materials into the state."*

**Request:** Clarify enforcement against out-of-state producers and secondary liability.

The draft rule does not explain how this prohibition will be enforced against out-of-state producers. We request that Ecology clarify: (1) how out-of-state producers will be identified and required to comply, including whether a public producer registry will exist; (2) whether Washington retailers or distributors receiving goods from non-compliant producers bear secondary liability; and (3) how Washington businesses dependent on out-of-state suppliers will be protected from supply chain disruption before the 2029 deadline.

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## Section 173-950-2XX Alternative Collection Program Requirements

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### Comment 7: "Responsible Markets" — Certification Requirements — WAC 173-950-2XX(1)(d)

*Rule text: An alternative collection program must "certify that materials are sent to responsible markets."*

**Request:** Define "responsible markets" and specify certification documentation requirements.

Neither "responsible markets" nor the meaning of "certify" is defined anywhere in the draft rule, making the requirement unenforceable. We request that Ecology: (1) add a definition of "responsible markets" to Section 173-950-030 with objective, auditable criteria including chain-of-custody records or equivalent verification; and (2) specify what documentation constitutes adequate certification and confirm that permitted composting facilities constitute responsible markets for compostable covered materials.

### Comment 8: Island Jurisdiction Logistics — WAC 173-950-2XX(1)(c)(ii)

*Rule text: Service tiers based on county population size, county population density, and city/town class.*

**Request:** Add a service tier accounting for ferry-dependent transportation costs of island jurisdictions.

Population size, density, and city/town class are inadequate metrics for island jurisdictions where all material transport requires water access. Lautenbach Recycling operates the San Juan Transfer Station, which depends on Washington State Ferries, with transportation costs bearing no relationship to mainland county benchmarks. We request that Ecology add a tier for island jurisdictions requiring that: (1) program plans document actual

transportation costs including ferry fares and cargo constraints; (2) performance targets reflect ferry-dependent transport realities; and (3) PRO reimbursement rates be calculated from documented actual transportation costs rather than mainland proxies.

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## Section 300 Service Provider Duties

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### Comment 9: Service Provider Input on Performance Standards — Section 300(1)(d)

*Rule text: Service providers must "comply with the performance standards in the approved producer responsibility organization plan."*

**Request:** Require a public comment period on PRO performance standards before plan approval.

The draft rule provides no mechanism for service providers to participate in setting performance standards before they are incorporated into an approved plan. Standards set exclusively by PROs risk being calibrated to large urban operations, effectively excluding rural and island facilities. We request that Ecology require, as a condition of any PRO plan approval: (1) proposed standards be published for a 30-day service provider comment period; (2) Ecology respond to objections before approving the plan; and (3) standards be differentiated by facility type and geography, with separate benchmarks for rural and island service areas.

### Comment 10: "Responsible Markets" Undefined — Section 300(1)(e)

*Rule text: Service providers must "ensure covered materials are delivered to responsible markets."*

**Request:** Define "responsible markets" with objective, auditable criteria.

"Responsible markets" is not defined anywhere in the draft rule, yet service providers face loss of PRO reimbursement or regulatory action for non-compliance — with no objective standard by which compliance can be assessed. We request that Ecology define "responsible markets" as facilities that: (1) operate in compliance with all applicable regulations; (2) provide chain-of-custody documentation for covered materials; and (3) are not subject to any closure order or enforcement action preventing lawful material processing.

### Comment 11: "Pass Along Savings to Customers" — Section 300(1)(g)

*Rule text: Service providers must "receive producer responsibility organization reimbursement for services and pass along savings to customers."*

**Request:** Define "savings" and specify the mechanism for passing savings along to customers.

"Savings" is undefined and the pass-along mechanism is unspecified. PRO reimbursement may only partially offset processing costs, leaving no net savings to distribute. We request that Ecology: (1) define "savings" as the portion of PRO reimbursement that exceeds the service provider's documented cost of providing covered services; (2) specify the pass-along mechanism (e.g., reduced tipping fees); and (3) provide that the obligation does not apply when reimbursement does not exceed actual cost of service.

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## Summary of Requests

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Lautenbach Recycling respectfully requests that Ecology address the following in the final rule:

1. Prohibit plastic film bags from commingled curbside collection programs. § 030(a)(iii)
2. Clarify the "noncommercial purposes" qualifier for paper products. § 030(a)(vii)
3. Narrow the multimaterial products definition using technical recyclability criteria. § 030(a)(viii)
4. Define objective criteria for use of prorated national data. § 100(1)(a)(ii)
5. Add data confidentiality protections for producers and service providers. § 100(1)(a)(iii)
6. Clarify enforcement against out-of-state producers and secondary liability. § 100(4)
7. Define "responsible markets" and specify certification documentation. § 2XX(1)(d)
8. Add an island jurisdiction service tier for ferry-dependent transportation costs. § 2XX(1)(c)(ii)
9. Require a 30-day comment period on PRO performance standards before plan approval. § 300(1)(d)
10. Define "responsible markets" with objective, auditable criteria. § 300(1)(e)
11. Define "savings" and specify the pass-along mechanism and scope. § 300(1)(g)

We appreciate Ecology's work on this rulemaking and look forward to continued engagement as the draft rule is refined. Please feel free to contact us with any questions.

Respectfully submitted,

**Lautenbach Recycling**

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