



Circular Action Alliance Washington LLC

September 1, 2026

Chris Fredley, Ecology SWMP Program Rule Coordinator
Solid Waste Management Program
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Submitted via Public Comment Form online at:
<https://ecology.commentinput.com/?id=HBuQZ3h6t>

Re: Recycling Reform Rulemaking – Chapter 173-950 WAC – Comment Period #2

Dear Mr. Fredley,

Circular Action Alliance (CAA) thanks the Department of Ecology (Department) for the opportunity to submit comments on the development of draft rule concepts and language under chapter 173-950 Washington Administrative Code (WAC), Solid Waste – Packaging and Paper Products – Producer Responsibility. We share the Department's goals of implementing an effective and equitable producer responsibility program in Washington. We are offering the following comments to clarify and strengthen the regulatory framework.

CAA is a U.S. Producer Responsibility Organization (PRO) dedicated to implementing effective Extended Producer Responsibility (EPR) programs for packaging and paper products. As a nonprofit, producer-led organization, CAA is committed to helping producers comply with EPR laws, delivering harmonized best-in-class compliance services and working with governments, businesses, and communities to reduce waste and recycle more. CAA was founded in 2022 and has 24 founding members representing the food, beverage, consumer goods, foodservice and retail industries. CAA was approved by the Department to serve as the PRO for Washington's EPR program under RCW 70A.208.060.

Our organization works to advance circular economy solutions through collaborative, producer-led EPR programs. A well-structured producer responsibility system can drive meaningful improvements in recycling, reuse and composting while reducing environmental impacts.

In the pages that follow, we provide general and specific comments on the draft regulatory language following Ecology's RRA rulemaking advisory committee meeting #2 and during Comment Period #2, organized by section for ease of reference. We are available to discuss these comments further and to support the successful implementation of Washington's producer responsibility program.



info@circularaction.org



www.circularactionalliance.org

Thank you for considering these comments and for the proactive engagement with interest holders throughout the development process. We value our collaborative relationship with the Department and are committed to supporting the effective launch and operation of Washington's EPR program.

Sincerely,



Julie Gilbertson
Washington State Program Manager
Circular Action Alliance



Specific Comments by Section

Meeting #1 Rule Language

Section 173-950-010 – Purpose

Section 010 “Purpose”

Regulatory Text

Chapter 173-950 WAC, referred to as the Recycling Reform Rule, establishes an extended producer responsibility program for packaging and paper products.

CAA Response

CAA proposes minor additions for clarification to this section of the Recycling Reform Rule that these rules are to guide the EPR program where statute requires further clarification by rule. These proposed revisions draw from the current wording on Ecology’s Recycling Reform rule webpage: <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-950#cr-101>.

CAA Recommendation

Revise the text as follows:

Chapter 173-950 WAC, referred to as the Recycling Reform Rule, clarifies and guides the implementation of the Recycling Reform Act, under chapter 70A.208 RCW, that establishes an extended producer responsibility program for residential packaging and paper products.

Section 173-950-020 – Applicability

Section 020 (1) – (4) “Applicability”

Regulatory Text

(1) **General applicability.** This chapter applies to:

- (a) A producer who introduces covered materials into the state of Washington;
- (b) A producer responsibility organization, including a producer that registers with the department as a producer responsibility organization to implement an individual plan;
- (c) A service provider that provides covered services for covered materials to covered entities; and
- (d) Until 2034, a group of producers that registers to implement an alternative collection plan.



(2) Materials subject to this chapter. *This chapter applies to covered materials.*

(3) Exclusions from applicability.

(a) Exempt materials. This chapter does not apply to exempt materials defined in RCW 70A.208.020(19).

(b) Excluded materials. This chapter does not apply to materials temporarily excluded by the department under RCW 70A.208.260.

(b) De minimis producers. This chapter does not apply to an entity that qualifies as a de minimis producer, based on the volume of covered materials introduced, global gross revenue thresholds (adjusted annually for inflation beginning January 1, 2031), or status as a qualifying agricultural employer as defined in RCW 70A.208.020(16).

(c) Government and charitable entities. This chapter does not apply to government entities or to organizations registered under 26 U.S.C. Sec. 501(c)(3) or 501(c)(4) as defined in RCW 70A.208.020(20).

(d) Excluded covered services. Except with respect to contamination, this chapter does not apply to resource recovery through mixed municipal solid waste composting or incineration, or to land disposal.

(4) Relationship to the statute. *The definitions in RCW 70A.208.020 apply throughout this chapter. In the event of a conflict between this chapter and chapter 70A.208 RCW, the statute controls.*

CAA Response

In this section, CAA proposes minor revisions for correction of scrivener's error in formatting and additional clarity. As discussed during the rulemaking committee meeting on Aug. 19, we encourage the Department to review the proposed exclusion applicability rule language to ensure that government or charitable entities that are defined in statute as excluded from obligations as producers are not unintentionally excluded from the potential to participate in the EPR program as service providers and as defined in statute. This consideration may also be warranted for entities that could fall into multiple categories, e.g., a producer and a service provider (for reuse or other covered service).

CAA Recommendation

Revise the text as follows:

(1) General applicability. *This chapter applies to:*

(a) A producer who introduces covered materials into the state of Washington;

*(b) A producer responsibility organization, including an **individual** producer that registers with the department as a producer responsibility organization to implement an individual plan;*



(c) A service provider that provides covered services for covered materials to covered entities; and

(d) Until 2034, a group of producers that registers or submits a petition to the department to implement an alternative collection plan.

(2) **Materials subject to this chapter.** This chapter applies only to covered materials as defined in RCW 70A.208.020.

(3) **Exclusions from applicability.**

(a) Exempt materials. This chapter does not apply to exempt materials defined in RCW 70A.208.020(19).

(b) Excluded materials. This chapter does not apply to materials temporarily excluded by the department under RCW 70A.208.260.

~~(b)~~ (c) De minimis producers. This chapter does not apply to an entity that qualifies as a de minimis producer as defined in RCW 70A.208.020(16), based on the volume weight of tons of covered materials introduced, or global gross revenue thresholds (adjusted annually for inflation beginning January 1, 2031), or status as a qualifying agricultural employer.

~~(e)~~ (d) Government and charitable entities. This chapter does not apply to government entities or to organizations registered under 26 U.S.C. Sec. 501(c)(3) or 501(c)(4) as defined in RCW 70A.208.020~~(20)~~(29)(b)(i) and (ii) as obligated producers. The exclusion from applicability as a producer does not preclude those entities from applicability as potential service providers providing covered services as defined in RCW 70A.208.020(15) to covered entities.

~~(d)~~ (e) Excluded covered services. As defined in RCW 70A.208.020(15), ~~Except~~ with respect to contamination, this chapter does not apply to resource recovery through mixed municipal solid waste composting or incineration, or to land disposal

(4) **Relationship to the statute.** The definitions in RCW 70A.208.020 apply throughout this chapter. In the event of a conflict between this chapter -Recycling Reform Rule and chapter 70A.208 RCW, the statute controls.

Section 173-950-030 – Definitions

Section 030 “Definitions”

CAA Response

CAA appreciates the Department’s clarification during the Aug. 19 rulemaking meeting that the definitions in draft rule language #2 were included for reference. Going forward, CAA recommends simply citing the definitions in statute and only including draft definitions when they add to or revise statutory definitions. CAA also supports the Department’s note



regarding the formatting approach the Department intends to use – underline and strikeout
– to clearly identify future proposed additions and revisions.

Section 173–950–110 – Producer Duties

Section 110 (1) – (3) “Producer Duties”

Regulatory Text

(1) A producer must:

- (a) Follow all applicable requirements in RCW 70A.208.030 and RCW 70A.208.040;
- (b) Maintain all documents and records necessary to ensure compliance for a minimum of seven years; and
- (c) Upon request, provide all documents and records necessary to ensure compliance to the department within 15 business days or the specified timeline provided by the department, whichever is later.

(2) To be a member in good standing with a registered producer responsibility organization, a producer must be in compliance with all reasonable and necessary terms of its agreement with the producer responsibility organization;

(3) A producer intending to cease participation in a producer responsibility organization shall provide written notice to their producer responsibility organization and the department no later than 30 days before ceasing participation. The notice must include:

- (a) The producer's name and any associated brands; and
- (b) The date the producer will cease participation.

CAA Response

CAA recommends the Department align any producer records retention requirements in Washington with Maryland, Colorado and Oregon, which is five years. This supports the intent in Washington's rulemaking to harmonize with other EPR programs and significantly lessens the administrative and financial burden on producers to be compliant with records retention schedules across states, especially producers who are obligated under the Recycling Reform Act but that have lower weight of covered materials introduced into the state. Furthermore, CAA encourages Ecology to set more flexible terms for compliance with document requests, extending to 20 business days. Lastly, CAA does not feel the proposed language in section (3) warrants inclusion in proposed rule at this time.

CAA Recommendation

Revise the text as follows:

(1) A producer must:



- (a) Follow all applicable requirements in RCW 70A.208.030 and RCW 70A.208.040;
 - (b) Maintain all documents and records necessary to ensure compliance for a minimum of ~~seven~~ five years; and
 - (c) Upon request, provide all documents and records necessary to ensure compliance to the department within ~~15-20~~ business days or the specified timeline provided by the department, whichever is later.
- (2) To be a member in good standing with a registered producer responsibility organization, the producer must comply with the reporting, payment, data submission, and other obligations required by the producer responsibility organization consistent with the requirements under chapter 70A.208 RCW, this chapter, and the approved plan;
- ~~(3) A producer intending to cease participation in a producer responsibility organization shall provide written notice to their producer responsibility organization and the department no later than 30 days before ceasing participation. The notice must include:~~
- ~~(a) The producer's name and any associated brands; and~~
 - ~~(b) The date the producer will cease participation.~~

Section 173-950-120 – Individual Producer Plan

Section 120 (1) – (5) “Individual Producer Plan”

Regulatory Text

This section applies to individual producers intending to operate under a department-approved Individual Plan.

- (1) A producer intending to operate under a department-approved individual plan must:
- (a) By January 1 two years prior to implementing a plan, notify the department and its producer responsibility organization in writing of its intent to leave the producer responsibility organization;
 - (b) By March 1 of that year, register with the department as a producer responsibility organization. A registration submission must include:
 - (i) Contact information for a person responsible for implementing an approved plan;
 - (ii) A list of brands of the producer's covered materials;
 - (iii) The volume of covered materials introduced into the state during the previous calendar year; and
 - (iv) Documentation demonstrating adequate financial responsibility and financial controls to ensure proper management of funds and payment of the annual registration fee to the department;



(c) By October of that year, submit an individual plan and a one-time plan review base fee to the department.

(i) The department will annually determine the plan review base fee. If the actual cost of review exceeds the plan review base fee, the department will charge an additional per-hour fee to cover the additional cost;

(ii) This fee covers:

(A) Cost of staff hours, including salaries and benefits required by law to be paid to, or on behalf of, employees; and

(B) Other costs incurred as a direct result of department staff working on the plan including travel related to plan review, printing and publishing plan documents, and other work, contracted or otherwise;

(d) Until plan approval, remain a member of its producer responsibility organization.

(2) **Program Plan:** The individual plan must follow the plan submittal and approval process in RCW 70A.208.060(5) and must include:

(a) A list of covered material types the producer is introducing in or into the state;

(b) Performance targets established under RCW [70A.208.150](#) as applicable to each covered materials type to be accomplished within a five-year period;

(c) A description of the methods of collection, how collection service convenience metrics in RCW [70A.208.100](#) will be met, and a description of processing infrastructure and covered services to be used for each covered materials type for persons and locations receiving services, at a minimum, and how these will meet the performance targets established in RCW [70A.208.150](#) for covered materials that are:

(i) Included or proposed to be included on lists established in RCW [70A.208.090](#);

(ii) Reusable covered materials managed through a reuse system; and

(iii) Capable of refill and managed through a refill system;

(d) A description of how, for each covered materials type, the producer responsibility organization will measure recycling, plastic source reduction, reuse, composting, and the inclusion of postconsumer recycled content, in accordance with the methodology established in RCW [70A.208.150](#);

(e) Third-party certifications as required by the department or voluntarily undertaken;

(f) A description of activities to be undertaken by the producer responsibility organization during each year to:

(i) Minimize the environmental impacts and human health impacts of covered materials, including assessing each covered material type's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;



(ii) Foster the improved design of covered materials, as identified under RCW [70A.208.160](#)(2)(c);

(iii) Provide funding to expand and increase the convenience of waste reduction, refill, reuse, collection, recycling, and composting services to covered entities, at a minimum, according to the order of the state's solid waste management hierarchy established in RCW [70A.205.005](#);

(iv) Provide for reimbursement rates to service providers for statewide coverage of covered services on the lists established in RCW [70A.208.090](#); and

(v) Monitor to ensure that postconsumer materials are delivered to responsible markets;

(g) A description of how the program will reimburse service providers under an approved plan including, but not limited to, a description of how the program will establish:

(i) A methodology to calculate differentiated reimbursement rates as provided in RCW [70A.208.160](#) and [70A.208.170](#);

(ii) A process for service providers to submit invoices and be reimbursed for covered services provided to covered entities;

(iii) Clear and reasonable timelines for reimbursement, at intervals no longer than monthly unless agreed to by a service provider and a producer responsibility organization; and

(iv) A process that utilizes a third-party mediator to resolve disputes that arise between the producer responsibility organization and a service provider regarding the determination of reimbursement rates and payment of reimbursements;

(h) A summary of consultations held with the advisory council and other interested parties to provide input to the plan, a list of recommendations that were incorporated into the plan as a result, and a list of rejected recommendations and the reasons for rejection;

(i) Strategies to incorporate findings from any relevant studies required by the legislature; and

(j) Any other relevant information required by the department.

(3) **Plan approval:** Consistent with the process established in RCW [70A.208.060](#)(5), the department may only approve a draft plan submitted by a producer responsibility organization that meets the requirements of this section. The department shall not approve a draft plan that does not satisfy each criteria required of a plan under this section including, but not limited to, a plan that does not reduce or eliminate disparities in the availability to socially vulnerable populations of covered services for covered materials.

(4) **Implementation:** A producer responsibility organization must implement the approved plan within six months of approval.



(5) Annual Reporting: A producer responsibility organization must follow the applicable annual reporting requirements in RCW 70A.208.200.

CAA Response

Overall, CAA agrees with the Department's proposed language that describes how this section applies to an individual producer and recommends alignment and clarification to specifically carry forward references to an "individual plan" and to "department-approved" throughout this section, aligning where these terms are referenced at the top of this section but not carried throughout.

Under proposed section (1)(b) further clarification to any different or additional registration requirements for an individual producer may be needed, CAA included a few proposed revisions to align with statute per RCW 70A.208.030(2).

Furthermore, additional clarification may be needed under section (1)(c) to clarify the one-time individual plan review fee and per hour fee associated with each submission of an individual plan. In addition, CAA recommends that volume be changed to weight when referencing the amount of covered material to be consistent with statute and with other states.

Finally, CAA recommends that the Department review if additional elements such as amendments to an individual plan need to be considered as well, and linking the individual plan requirements proposed under section (2) back to statute under RCW 70A.208.130 as that was not included in this section.

CAA Recommendation

Revise the text as follows:

This section applies to any individual producers~~s~~ intending to operate under a department-approved individual producer plan or "Individual Plan".

(1) An individual producer intending to operate under a department-approved individual plan must:

(a) By January 1 two years prior to implementing an individual plan, notify the department and its producer responsibility organizations~~s~~ in writing of its intent to leave the producer responsibility organizations~~s~~;

(b) By March 1 of that year, register with the department as an individual producer responsibility organization. A registration submission must satisfy requirements under 70A.208.030 and include:

(i) Contact information for a person responsible for implementing a department-approved individual plan;

(ii) A list of all brands of the individual producer's covered materials;

(iii) The volume weight of covered materials introduced into the state during the previous calendar year; and



- (iv) Documentation demonstrating adequate financial responsibility and financial controls to ensure proper management of funds and payment of the annual registration fee to the department;
- (c) By October 1 of that year, submit an individual plan and pay a one-time individual plan review base fee for each individual plan submission to the department.
- (i) The department will annually determine the individual plan review base fee. If the actual cost of review exceeds the individual plan review base fee, the department will charge an additional per-hour fee to cover the additional cost;
- (ii) The is per-hour fee covers:
- (A) Cost of staff hours, including salaries and benefits required by law to be paid to, or on behalf of, employees; and
- (B) Other costs incurred as a direct result of department staff working on the individual plan including travel related to individual plan review, printing and publishing individual plan documents, and other work, contracted or otherwise; and
- (d) Until individual plan approval, a producer shall remain a member of its producer responsibility organizations.
- (2) **Individual Program Plan:** The individual plan must follow the plan submittal and department approval and amendment process detailed in section (3) below and RCW 70A.208.060(5). An individual plan must satisfy the requirements of RCW 70A.208.130 and must include:
- (a) A list of covered material types the individual producer is introducing in or into the state;
- (b) Performance targets established under RCW 70A.208.150 as applicable to each covered materials type to be accomplished within a five-year period;
- (c) A description of the methods of collection, how collection service convenience metrics in RCW 70A.208.100 will be met, and a description of processing infrastructure and covered services to be used for each covered materials type for persons and locations receiving services, at a minimum, and how these will meet the performance targets established in RCW 70A.208.150 for covered materials that are:
- (i) Included or proposed to be included on lists established in RCW 70A.208.090;
- (ii) Reusable covered materials managed through a reuse system; and
- (iii) Capable of refill and managed through a refill system;
- (d) A description of how, for each covered materials type, the producer responsibility organization implementing a department-approved individual plan will measure recycling, plastic source reduction, reuse, composting, and the inclusion of postconsumer recycled content, in accordance with the methodology established in RCW 70A.208.150;



- (e) Third-party certifications as required by the department or voluntarily undertaken;
- (f) A description of activities to be undertaken by the producer responsibility organization implementing a department-approved individual plan during each year to:
- (i) Minimize the environmental impacts and human health impacts of covered materials, including assessing each covered material type's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;
 - (ii) Foster the improved design of covered materials, as identified under RCW [70A.208.160](#)(2)(c);
 - (iii) Provide funding to expand and increase the convenience of waste reduction, refill, reuse, collection, recycling, and composting services to covered entities, at a minimum, according to the order of the state's solid waste management hierarchy established in RCW [70A.205.005](#);
 - (iv) Provide for reimbursement rates to service providers for statewide coverage of covered services on the lists established in RCW [70A.208.090](#); and
 - (v) Monitor to ensure that postconsumer materials are delivered to responsible markets;
- (g) A description of how the individual producer and individual plan program will reimburse service providers under an approved individual plan including, but not limited to, a description of how the individual producer program will establish:
- (i) A methodology to calculate differentiated reimbursement rates as provided in RCW [70A.208.160](#) and [70A.208.170](#);
 - (ii) A process for service providers to submit invoices and be reimbursed for covered services provided to covered entities;
 - (iii) Clear and reasonable timelines for reimbursement, at intervals no longer than monthly unless agreed to by a service provider and a producer responsibility organization; and
 - (iv) A process that utilizes a third-party mediator to resolve disputes that arise between the individual producer responsibility organization and a service provider regarding the determination of reimbursement rates and payment of reimbursements;
- (h) A summary of the individual producer's consultations held with the advisory council and other interested parties to provide input to the individual plan, a list of recommendations that were incorporated into the individual plan as a result, and a list of rejected recommendations and the reasons for rejection;
- (i) Strategies to incorporate findings from any relevant studies required by the legislature; and



(j) Any other relevant information required by the department.

(3) **Individual Plan approval:** Consistent with the process established in RCW [70A.208.060](#)(5), the department may only approve a draft individual plan submitted by a producer responsibility organization that meets the requirements of this section. The department shall not approve a draft individual plan that does not satisfy each criteria required of a plan under this section including, but not limited to, an individual plan that does not reduce or eliminate disparities in the availability to socially vulnerable populations of covered services for covered materials.

(4) **Implementation:** A producer responsibility organization must implement the department-approved individual plan within six months of approval.

(5) **Annual Reporting:** A producer responsibility organization implementing an individual plan must follow the applicable annual reporting requirements in RCW 70A.208.200 and this chapter.

Meeting #2 Rule Language PRO

173-950-210 Producer Responsibility Organization Duties

Section 210 (2), (3) "Producer Responsibility Organization Duties"

Regulatory Text

A producer responsibility organization must:

(1) Complete the registration requirements in RCW [70A.208.030](#). A registration submission by a producer responsibility organization must include the total volume of covered materials introduced into Washington by member producers during the previous calendar year.

(2) Complete the responsibilities of RCW [70A.208.040](#) and the following:

(a) Retain all documents and records necessary to confirm compliance for a minimum period of seven years;

(b) Provide documents or records within 15 business days of the department's request or on the timeline provided by the department, whichever is later.

(3) Submit a plan to the department as required in RCW [70A.208.130](#). Each plan must:

(a) Describe the producer responsibility organization, general policies, procedures, and practices;

(b) Establish procedures to ensure service providers meet the requirements in RCW [70A.208.080](#);



(c) After January 1, 2032, describe how the equity study recommended actions are included in the plan; and

(d) Include a contingency plan as required by RCW [70A.208.140](#).

(4) Submit an annual report to the department as required under RCW [70A.208.200](#). The annual report must include:

(a) Descriptions of efforts related to program effectiveness, including challenges and modifications; system operations including expansions, improvements, and capacity; contamination management; public and tribal engagement; equity; and responsible markets;

(b) Descriptions of the continuous improvements accomplished by the program as required under RCW [70A.208.150](#)(3).

CAA Response

CAA understands the intent with proposed language in section (1) is to support the Department's ability to equitably determine the assignment of regulator fees across multiple producer responsibility organizations, a group of producers approved to operate an alternative collection plan and any registered individual producer(s). Given the close proximity of March 1st to the beginning of the year when companies may still be closing out their accounts and deliverables for the prior year, it will be difficult to compile an accurate total weight for the previous year by March 1st. Therefore, CAA recommends this requirement be an estimate rather than actuals to provide best available data with respect to timing of March 1 and annual registration submissions to the Department.

As noted in the producer duties section above, CAA recommends the Department align any records retention requirements with existing requirements in Maryland, Colorado and Oregon, which is five years. This supports the intent in Washington's rulemaking to harmonize with other EPR programs and significantly lessens the administrative and financial burden on producer responsibility organizations to be compliant with records retention schedules across states. Furthermore, CAA encourages the Department to set more flexible terms for reporting compliance, extending to 20 business days. Additionally, CAA recommends the Department clarify the timeframe for when the equity study recommendations and findings can reasonably be incorporated into a producer responsibility organization's program plan based on timing of when the study will be published and finalized and to allow for adequate review and consultations with the advisory council and equity subcommittee or public consultations on program plans. Furthermore, CAA proposes aligning with other department-led assessments and studies use "inform" for consistency in third-party studies that inform program plans.

Finally, although no language has been proposed yet by the Department, there are several aspects that are unclear as to what the registered producer responsibility organization duties are for the first program plan period when a group of producers other than the producer responsibility organization is responsible for managing an approved alternative



collection plan. For example, how does an approved alternative collection program plan impact:

- Registration duties (e.g., does a group of producers need to register and report with CAA for the specific covered material managed in the alternative collection program? If the group of producers does not represent all producers of that specific covered material, do those producers need to register with CAA for the materials managed by the group's alternative collection program?)
- Program plan duties (e.g., if not all producers are part of the alternative program plan, what are the requirements, if any, for these specific covered materials in the producer responsibility organization program plan?)
- Annual report duties (e.g., is the producer responsibility organization required to report on these specific covered materials as part of its annual report)
- Contingency duties (e.g., if an alternative collection program fails to comply with the requirements, does the producer responsibility organization need to build in contingencies to manage these materials?)

CAA Recommendation

Revise the text as follows:

A producer responsibility organization must:

(1) Complete the registration requirements in RCW [70A.208.030](#). A registration submission by a producer responsibility organization must include the total ~~volume~~ aggregate weight of covered materials introduced into Washington ~~by~~ for all member producers during the previous calendar year. If actual weights from the previous calendar year are not available in time to compile and submit to the department by the annual registration deadline, an estimate of total aggregate weight can be used to satisfy this requirement.

(2) Complete the responsibilities of RCW [70A.208.040](#) and the following:

(a) Retain all documents and records necessary to confirm compliance for a minimum ~~period~~ of ~~seven~~ five years; and

(b) Provide documents or records within ~~15~~ 20 business days of the department's request or on the timeline provided by the department, whichever is later.

(3) Submit a program plan to the department as required in RCW [70A.208.130](#). Each plan must:

(a) Describe the producer responsibility organization, general policies, procedures, and practices;

(b) Establish procedures to ensure confirm service providers meet the requirements in RCW [70A.208.080](#);

(c) After January 1, 2032, describe how the equity study recommended actions findings and recommendations are included in inform the subsequent program plan; and



- (d) Include a contingency plan as required by RCW [70A.208.140](#).
- (4) Submit an annual report to the department as required under RCW [70A.208.200](#). The annual report must include:
- (a) Descriptions of efforts related to program effectiveness, including challenges and modifications; system operations including expansions, improvements, and capacity; contamination management; public and tribal engagement; equity; and responsible markets; *and*
 - (b) Descriptions of the continuous improvements accomplished by the program as required under RCW [70A.208.150](#)(3).

173–950–230 Reuse Financial Assistance Program

Section 230 (1), (2) “Reuse Financial Assistance Program”

Regulatory Text

- (1) Collectively producer responsibility organizations must annually fund and implement a reuse financial assistance program as required under RCW [70A.208.040](#)(5).
- (2) Producer responsibility organizations must consult with the department in the development and implementation of the reuse financial assistance program, including on:
- (a) Establishing applicant selection criteria, evaluating and selecting applicants, and administering the program; and
 - (b) Providing for department review of the results and outcomes of the funded reuse projects.

CAA Response

CAA recommends that any areas where the producer responsibility organizations consult with the Department focus on establishing applicant selection criteria and review of results and outcomes of the funded projects. Given the annual cadence of the fund and the coordination required across multiple producer responsibility organizations, it would significantly increase the administrative burden of the reuse financial assistance program to have the Department involved in evaluation and selection of applicants as well as program administration. Furthermore, the Department as a member of the advisory council will be consulted on evaluation criteria pursuant to RCW 70A.208.060(5)(d).

Finally, CAA recommends that additional language be provided in rule that establishes clear parameters for a ceiling on any additional funding requirements beyond inflationary adjustments for the reuse financial assistance program.

CAA Recommendation

Revise the text as follows:



(1) Collectively producer responsibility organizations must annually fund and implement a reuse financial assistance program as required under RCW [70A.208.040\(5\)](#).

(a) If the department determines that reuse and return rates established in an approved plan are not met, the department shall consult with producer responsibility organizations and the coordinating body regarding the potential causes of the shortfall prior to considering any potential required increase in annual contributions and beyond inflationary adjustments consistent with RCW 70A.208.040(5)(a); and

(b) The department may require an increase in annual contributions only when it reasonably determines that additional funding is likely to improve achievement of the applicable reuse and return rate requirements. Any increase must be limited to the minimum amount reasonably necessary to achieve those requirements in an approved plan. The department shall provide a minimum of one year notice prior to requiring an increase.

(c) **Limitations.** Funds from the reuse financial assistance program shall be used to:

(i) fund improving the reuse and return rate for covered materials;

(ii) be restricted from use for beverage container deposit return systems or CRV.

(2) ~~A P~~producer responsibility organizations, or coordinating body if there are multiple producer responsibility organizations, must consult with the department in the development and implementation of the reuse financial assistance program, including on:

(a) Establishing applicant selection criteria, ~~evaluating and selecting applicants, and administering the program;~~ and

(b) Providing for department review of the results and outcomes of the funded reuse projects.

