FOODSERVICE PACKAGING INSTITUTE®

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TO: Washington Department of Ecology
Submitted via [online form]

RE: Foodservice Packaging Institute Comments Recycling Reform Rulemaking - Chapter 173-950 WAC - Comment Period #2

DATE: September 1, 2026

Dear Washington Department of Ecology:

On behalf of the Foodservice Packaging Institute (FPI), we appreciate the opportunity to provide comments for your consideration regarding the Recycling Reform Rulemaking - Chapter 173-950 WAC - Comment Period #2.

Founded in 1933, FPI is the leading authority on foodservice packaging in North America. We support the responsible use of all foodservice packaging and advocate for a fair and open marketplace for all materials. FPI's core members include raw material and machinery suppliers as well as packaging manufacturers, representing approximately 90 percent of the industry. Additionally, some distributors and purchasers of foodservice packaging are part of FPI's affiliate membership.

The foodservice packaging industry is committed to reducing the impact of its products on the environment and is dedicated to increasing their recovery. As you are aware, FPI has several special interest groups that bring together the supply chain to develop and promote economically viable and sustainable recovery solutions for foodservice packaging. These special interest groups include the Paper Recovery Alliance, Plastic Recovery Group, Paper Cup Alliance and Foam Recycling Coalition. You may access more information on these groups and their efforts [here].

FPI offers the following feedback concerning the draft Recycling Reform rules as published August 2, 2026, and presented to the Rulemaking Advisory Committee (RAC) on August 19, 2026.

Reporting Metrics for Covered Materials

First, FPI recommends revising the draft provisions in 173-950-020(3)(b) and 173-950-210 to better align with the statutory framework and provide flexibility regarding how covered materials are measured and reported.

Specifically, as proposed 173-950-020(3)(b) references a de minimis producer threshold based on volume, whereas the statutory definition includes a weight-based threshold. To align with the statute, the rule should reflect that covered materials may be evaluated based on weight.

Similarly, 173-950-210 would require the producer responsibility organization (PRO) to report the "total volume of covered materials introduced into Washington in the previous year." We recommend revising this provision to allow the PRO to use the most appropriate and reliable measurement methodology, including a weight-based approach. Allowing reporting based on either volume or weight would better align the rule with the statute, reduce unnecessary reporting burdens, and enable the use of data sources and methodologies that most accurately reflect the quantity of covered materials supplied into the state.

Record Retention and Document Request Timeframes

We recommend reducing the record retention requirement in 173-950-210(2)(a) from seven years to five years. A five-year retention period would provide sufficient documentation for compliance purposes while reducing unnecessary recordkeeping requirements.

FPI also recommends extending the timeframe in 173-950-210(2)(b) from 15 to 20 business days. Given the need to coordinate with multiple producers to collect and verify requested information, a modest extension would better support accurate and complete responses.

Good Standing Determination

With respect to the requirements for a producer to be considered a member in good standing, FPI encourages Ecology to include a direct cross-reference to RCW 70A.208.040 and clarify that good standing is tied to compliance with the Act and its implementing regulations.

We further suggest revising 173-950-110(2) to follow an approach similar to Colorado's packaging EPR regulations, under which a producer's good standing is based on statutory compliance and final enforcement actions, rather than compliance with the terms of a private PRO agreement. This approach would provide greater clarity and maintain a clear distinction between regulatory obligations under the Act and contractual obligations between producers and the PRO.

Reuse Financial Assistance Program Funding

We request additional clarity regarding the administration and funding of the reuse financial assistance program. While the statutory minimum funding level is established in law, the requirement to increase funding as necessary to achieve reuse and return targets creates uncertainty regarding future funding obligations. We encourage Ecology to establish clear, objective criteria for determining when additional funding is warranted. We also recommend that any determination requiring additional funding be accompanied by sufficient advance notice and a transparent explanation of the basis for the increase. Additionally, Ecology should consider factors outside the control of producers and producer responsibility organizations when evaluating whether additional funding is necessary.

We further suggest clarification regarding Ecology's proposed consultation role in program development and implementation of the reuse financial assistance program to ensure clear delineation of responsibilities among PRO, the Advisory Council and Ecology.

Thank you for the opportunity to provide these comments for your consideration. FPI appreciates Ecology's continued engagement with stakeholders and looks forward to continued participation throughout the rulemaking process.

Sincerely,

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