

Re: Comments of the Washington Refuse & Recycling Association on Draft RRA Meeting #2 Rule Package

I. Proposed WAC 173-950-210(3) — PRO Plan Requirements

Proposed WAC 173-950-210(3) memorializes many of the key elements that must be addressed in a PRO plan; however, it does not expressly address reimbursement to service providers, a key duty of the PRO. Reimbursement is a central component of the Recycling Reform Act (RRA) and should be reflected in the PRO plan requirements. WRRA recommends adding language requiring PRO plans to describe how the PRO will reimburse eligible service providers, including the applicable reimbursement structure and criteria. This language could be modeled on the reimbursement requirements in WAC 173-950-120(2)(g) to provide consistency across the rule and ensure that reimbursement is addressed as a core element of each PRO plan.

See Proposed WAC 173-950-120(2)(g):

- (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;”

II. Proposed WAC 173-950-220 — Coordinating Body, Subsection (2)

Similarly, proposed WAC 173-950-220(2) establishes requirements for coordinating bodies between PROs but does not expressly address reimbursement of service providers. WRRA recommends adding reimbursement requirements to this section to ensure that coordinating PROs have an obligation to make eligible service providers whole for covered costs. The rule should also require coordinating PROs to establish reimbursement criteria that are consistent with the broader requirements and intent of the RRA. Without clear reimbursement requirements, there is a risk of inconsistent approaches among PROs and uncertainty for service providers regarding what costs are eligible for reimbursement and how reimbursement amounts will be determined. Similarly, on the PRO side, the coordinating body can play a role in ensuring that each program reimburses for activities covered by its program and not other programs.

III. Proposed WAC 173-950-020 — Applicability, Subsection (3)(c)

WRRA recommends deleting the reference to government and charitable entities from the applicability section. Placing this language in the applicability section could create an overbroad interpretation because local governments and charitable organizations may themselves become service providers under the RRA and, when acting in that capacity, would be subject to the applicable requirements of the law and rules. The applicability provision should not be drafted in a manner that could inadvertently exclude entities based on their organizational status when those entities are otherwise eligible to register and participate as service providers under the RRA.

IV. Proposed WAC 173-950-020 — Applicability, Subsection (3)(d)

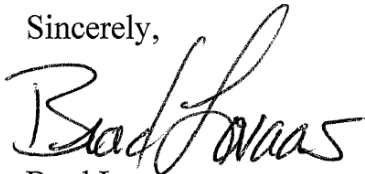
WRRA similarly recommends revising or removing the language in subsection (3)(d). Including this statutory language in the applicability section could result in an overly broad limitation on the scope of the rule. The apparent intent is to clarify that a PRO is not responsible for funding composting generally, particularly costs unrelated to the management of covered products. However, limiting applicability to contamination-related costs is potentially inconsistent with the broader framework of the RRA and its treatment of compostable products included on statewide collection lists.

Compost facilities that register as service providers should be eligible for reimbursement for the costs of managing compostable products that are included on statewide collection lists, consistent with the treatment of those materials as covered products under the RRA. The applicability provision should therefore avoid language that could be interpreted to categorically exclude composting or compost facilities from reimbursement. WRRA recommends clarifying that the rule does not require PRO reimbursement for general composting activities, while preserving eligibility for reimbursement of covered costs associated with the collection, transportation, processing, and management of covered compostable products.

V. Conclusion

WRRA appreciates the opportunity to comment on this plan and the Department's consideration of these issues. We would welcome the opportunity to discuss these comments further before the plan is finalized. Please contact Rod Whittaker, rod@wrra.org, with any questions.

Sincerely,



Brad Lovaas
Executive Director