ALLIANCE FOR AUTOMOTIVE INNOVATION

September 2, 2026

Chris Fredley
Rule Coordinator
Solid Waste Management Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

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

Dear Mr. Fredley,

The Alliance for Automotive Innovation (Auto Innovators)[1] appreciates the opportunity to provide feedback on the implementing regulations for the Recycling Reform Act. Auto Innovators represents the full auto industry, including the manufacturers producing the most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to ensure a healthy and competitive auto industry that supports U.S. economic and national security.

Automakers have been engaged in the implementation of similar programs in several different states as well as internationally. While we are often included in these programs, it is important to share the unique needs of the automotive industry as manufacturers of complex durable goods. We present the following recommendations for clarification in the proposed rule, many of which come from our experiences in those jurisdictions.

Clarify What is Required under Section (j): Hazardous Flammable Materials

Section (j) exempts packaging used to contain hazardous or flammable products classified under the 2012 federal Occupational Safety and Health Administration Hazard Communication Standard, 29 C.F.R. § 1910.1200, when the hazardous or flammable nature of the product prevents the packaging from being reduced or made reusable, recyclable, or compostable, "as determined by the department." The rule should establish clear standards and procedures governing this determination. Without

[1] The Alliance for Automotive Innovation is an association of automakers, equipment manufacturers, and auto-related technology and aftermarket-part suppliers that represents the producers of nearly 95% of new cars and light trucks sold in the United States. AAI's membership spans the full scope of the auto industry, including companies of all sizes in the automotive and downstream consumer- and commercial-product supply chain. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to ensure a healthy and competitive auto industry that supports U.S. economic and national security. Representing approximately 5 percent of the country's GDP, responsible for supporting nearly 10 million jobs, and driving $1 trillion in annual economic activity, the automotive industry is the nation's largest manufacturing sector. www.autosinnovate.org.

guidance or procedures, producers cannot reliably identify covered materials, calculate reporting quantities, or evaluate packaging-design changes.

The phrase “as determined by the department” should not result in an open-ended or exclusively product-by-product approval process. Many hazardous-product packaging requirements apply consistently across product classes, packaging configurations, or hazard categories. Requiring separate determinations for every product, stock-keeping unit, or minor formulation variation would impose substantial burdens on both producers and the department without producing a corresponding environmental benefit.

The rule should also clarify how the statutory term “or” will be applied. Specifically, the department should explain whether the exemption applies when hazardous or flammable characteristics prevent the packaging from achieving one or more of the identified outcomes—reduction, reuse, recyclability, or compostability—or only when every option is unavailable. Consistent with the statutory text, a producer should not be required to establish that all four outcomes are impossible when the product’s hazards foreclose the otherwise applicable or technically relevant packaging option.

Clarify the Definition of Business-to-Business Distribution Channels

The current language appears to establish a business-to-business exemption:

(o) Covered materials that:

> (i) A producer distributes to another producer;
>
> (ii) Are subsequently used to contain a product and the product is distributed to a commercial or business entity for the production of another product; and
>
> (iii) Are not introduced to a person other than the commercial or business entity that first received the product used for the production of another product;

In this construction, it appears that packaging has to meet several potentially overlapping conditions to be considered business to business exempt packaging. The final rule should clarify the treatment of packaging used exclusively in manufacturing, assembly, or industrial channels. These materials generally move between commercial entities under controlled distribution arrangements and are not supplied to consumers for personal use.

Require PRO Oversight and Transparency

Because the PRO will collect and manage substantial mandatory fees from producers, the final rule must establish fully transparent financial requirements for the PRO. The statutory requirement to submit a financial audit may not along provide producers or the public with sufficient information to understand how fees were calculated, how funds were spent, or whether collected revenue materially exceeded program needs.

The experience in Oregon illustrates the importance of establishing these requirements before Washington's program begins collecting fees. For the first six months of Oregon's operational program, Circular Action Alliance (CAA), the PRO for the state, reported approximately $165.9 million in producer-fee revenue, $56.5 million in actual program expenditures, and $111.4 million in accumulated reserves.[2] CAA explained that expenditures were lower than projected because of implementation timelines and that major investments would continue in 2026 and 2027. Regardless of lessons learned, accumulating reserves of that magnitude through a fee collection process that is relatively opaque to stakeholders demonstrates why producers, regulators, and the public need timely, program-specific information concerning financials.

Washington law expressly requires PRO fees to generate revenue sufficient to pay program obligations and establish a financially prudent reserve. It also provides that revenue exceeding program costs and necessary reserves must be used to improve program outcomes or reduce producer fees. It is imperative that any final rule include a requirement for fee-setting transparency. Before adopting or materially revising producer fees, the PRO should disclose the projected program costs, covered-material quantities, reserve contribution, administrative allocation, and any other assumptions used to calculate those fees. Stakeholders should receive reasonable notice, access to supporting calculations, and an opportunity to comment before fees take effect.

CAA's Oregon results do not alone establish that the reported reserve was improper, particularly during the initial build-out of a new program. They do, however, demonstrate that actual collections and expenditures can diverge substantially during implementation. Clear financial controls established in advance will allow Ecology and producers to distinguish prudent funding for committed future obligations from unnecessary overcollection and will help ensure that Washington's fees remain no greater than necessary to implement the approved program.

Do Not Require Registration with Multiple PROs

The final rule should expressly clarify that, if Ecology permits more than one producer responsibility organization after the initial plan implementation period, each producer will be required to join and maintain membership in only one PRO. A producer's selected PRO should be responsible for administering all obligations associated with that producer's covered materials, including registration, reporting, fee collection, compliance assistance, and participation in the coordinated statewide plan.

This interpretation is consistent with the statute, which requires a producer to be a "member of a producer responsibility organization" and to maintain membership with

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[2] *See* CAA Oregon 2025 Annual Report, https://recycleon.org/caa-annualreport25-oregon/. Pp. 62-63 and Table 14.

and pay fees to “the producer responsibility organization under which [the producer] is registered.” The statute does not require membership in more than one PRO (should multiple exist) or authorize duplicative or overlapping registration and fee obligations.

We request that the final rule clarify that a producer satisfies the membership requirement by joining one registered PRO or, where permitted, registering as a PRO to implement an individual producer plan. This clarification is particularly relevant to producers with diverse product portfolios and multiple covered material types. Requiring those producers to participate in several PROs could create duplicative requirements, conflicting requirements, and interfere with the overall goal of reducing waste.

Conclusion

Again, we appreciate the opportunity to provide recommendations for making this program more successful. We strongly recommend that the Department address these recommendations as they are areas of the statute that warrant further refinement. If you have any questions, please feel free to contact me at ejones@autosinnovate.org.

Sincerely,

Emily Jones
Director, Energy & Environment
Alliance for Automotive Innovation