

September 1, 2026

Mr. Chris Fredley

Solid Waste Management Program Rule Coordinator

Washington Department of Ecology

Dear Mr. Fredley:

Thank you for the opportunity to comment on the Washington Department of Ecology's (hereafter, Ecology's) draft rule language for chapter 173-950 Washington Administrative Code (WAC), which will guide Ecology's implementation of the Recycling Reform Act (RRA). Clark County Solid Waste and Recycling and the City of Vancouver Solid Waste Services would like to offer the following comments on the August 19, 2026, draft rule language.

173-950-020 Applicability

Firstly, please clarify whether Ecology intends for these rules to apply to government entities registered as service providers.

WAC 173-950-020(1)(c) states that this chapter applies to "a service provider that provides covered services for covered materials to covered entities."

RCW 70A.208.020(43) defines a service provider as:

"An entity that provides covered services for covered materials. A government entity that provides, contracts for, or otherwise arranges for another party to provide covered services for covered materials within its jurisdiction may be a service provider regardless of whether it provided, contracted for, or otherwise arranged for similar services before the approval of the applicable plan."

If you were to substitute the statutory definition of service provider into WAC 173-950-020(1)(c), this rule chapter would be applicable to "An entity that provides covered services for covered materials that provides covered services for covered materials to covered entities." "Provides covered services for covered materials" is redundant.

Furthermore, while proposed WAC 173-950-020(1)(c) states that this rule chapter is applicable to "a service provider that provides covered services for covered materials

to covered entities,” WAC 173-950-020(3)(c) states that this rule chapter is not applicable to “government entities.”¹

Statute indicates that a government entity is a service provider if it provides, contracts for, or arranges covered services for covered materials. In 2026, many government entities registered as service providers, including those that are service providers because they contract for covered services for covered materials.

If Ecology intends for this rule chapter to apply to all service providers, then WAC 173-950-020(1)(c) should be revised to “This chapter applies to any service provider.” If Ecology intends for these rules to only apply to certain service providers, for clarity, WAC 173-950-020(1)(c) should be revised to “This chapter applies to service providers, except for...” If Ecology intends for these rules to not apply to government entities registered as service providers, please explain why.

Secondly, statute is inconsistently cited when referring to a defined term. For example, proposed WAC 173-950-020(2) states “This chapter applies to covered materials,” with no citation, while proposed WAC 173-950-010(3)(a) states “This chapter does not apply to exempt materials *defined in RCW 70A.208.020(19)* (emphasis added).” **Please revise this section to be consistent when it cites statute.**

Finally, proposed WAC 173-950-020(4) states that “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.” **Should this statement be in WAC 173-950-030 Definitions? If this statement is included in WAC 173-950-020, do any of the defined terms need to be qualified with “as defined in RCW...?”**

173-950-030 Definitions

It appears that no new definitions have been proposed. Some definitions have been copied from RCW 70A.208.020, but several have not.

If possible, please only use this section to define terms without existing statutory definitions and refer to statute when using terms defined in RCW 70A.208.020. This will reduce the need for future editing if statute ever changes.

¹ Please note that the proposed rule has two sections labeled WAC 173-950-020(3)(b).

173-950-110 Producer Duties

“Good standing” is only used once in RCW 70A.208 and is not defined in statute.² The proposed rules would define being in “good standing” as being “in compliance with all reasonable and necessary terms of its [the producer’s] agreement with the producer responsibility organization.”

Has Ecology considered whether complying with statute and rule should also be a requirement to be in good standing?

173-950-120 Individual Producer Plan

Please revise the title of this section to “Individual Plan,” because that is the term defined and used in statute.

WAC 173-950-120(1)

- Re: “By January 1 two years prior to implementing a plan...”
 - Does statute or rule state that an individual plan may only commence on January 1st? **If Ecology intends for individual plans to only commence on January 1st, please explicitly state this in rule if it is not explicitly stated elsewhere.**
 - The proposed rule states that, two years before implementing an individual plan, the producer must notify Ecology and the producer responsibility organization (PRO) of its intent to leave the PRO. **However, is there a scenario after the first plan implementation period in which a producer could begin introducing covered materials into Washington and operate under an individual plan from the very beginning? Or does every producer introducing covered materials need to at least be a part of the PRO for two years before they could consider operating under an individual plan?** If it is not Ecology’s intent to prohibit operating under an individual plan from the first date a producer introduces covered materials into Washington, then proposed WAC 173-950-120(1)(a) should be qualified that the two-year notification is only applicable if the producer is already a member of the PRO.
- Re: “By March 1 of that year...”
 - **“That year” is unclear.** Plan implementation year? Two years before plan implementation year? Please clarify.

² RCW 70A.208.040(2).

- As written, a producer implementing an individual plan only needs to register with Ecology once. However, RCW 70A.208.030(2) states that “By March 1, 2026, *and annually thereafter*, a producer responsibility organization must register with the department on behalf of its producers” (emphasis added). Similarly, RCW 70A.208.030(4) states that “...each May 1st thereafter, a producer responsibility organization must submit an *annual* registration fee...” (emphasis added). **To clarify, is an individual producer registering as a PRO a one-time requirement or is it intended to be recurring?**

WAC 173-950-120(2)

- Re: “The individual plan must follow the plan submittal and approval process in RCW 70A.208.060(5)...”
 - **Please revisit the grammar of this statement.** It is the responsibility of the producer, not their plan, to submit their plan through the appropriate process. Furthermore, RCW 70A.208.060(5) does not state how the plan must be submitted. RCW 70A.208.060(5) describes the timelines and process that Ecology must follow as Ecology reviews a plan. All the requirements in RCW 70A.208.060(5) apply to Ecology, not a producer or PRO. **For consistency with statute, please consider rephrasing this statement as a responsibility of Ecology.** For example, “The department must follow the procedures in RCW 70A.208.060(5) when reviewing the individual plan.”
- Re: “Foster the improved design of covered materials, as identified under RCW 70A.208.160(2)(c).”
 - “Improved design” is not the term used in RCW 70A.208.160 and is a subjective term open to interpretation, unless defined. **Please change “improved design” to something more clearly linked to the statutory requirements at RCW 70A.208.160(2)(c),** such as “foster the use of materials and design attributes that reduce the environmental impacts and human health impacts of covered materials, as identified under RCW 70A.208.160(2)(c).”

General feedback

Some parts of RCW 70A.208.130 have been copied into proposed WAC 173-950-120. For example, WAC 173-950-120(2)(c) is a verbatim copy of RCW 70A.208.130(3)(c). Other elements of RCW 70A.208.130 have no equivalent in the proposed rule (e.g., RCW

70A.208.130(3)(f), requiring a budget in a draft PRO plan). **Instead of copying parts of statute, please cite the applicable requirements in statute.**

173-950-220 Coordinating Body

Firstly, **when is the “coordinated plan” due?** The proposed rule states that the coordinating body must register with Ecology by May 1st of the year that the body is established and that Ecology must review the coordinated plan within 120 days of receiving it.³ **By what date must Ecology receive the plan?**

Secondly, proposed WAC 173-950-220(2)(a) states:

“Each coordinated plan submitted by the coordinating body must include plans of all producer responsibility organizations into a single plan that implements all requirements of this chapter and encompasses all producers when submitted to the department for approval.”

“Each coordinated plan...must include plans...into a single plan” is grammatically incorrect. **Please revise WAC 173-950-220(2)(a) to clarify what exactly the coordinating body must do.**

173-950-230 Reuse Financial Assistance Program

Proposed WAC 173-950-230(1)

Please consider revising “Collectively producer responsibility organizations must annually fund and implement...” to “The coordinating body must ensure that producer responsibility organizations annually fund and implement...”

RCW 70A.208.040(4) states that, if there are multiple PROs, there must be a coordinating body. Per RCW 70A.208.040(4)(c), the coordinating body is required to “integrate” the “payments between all [PROs] to achieve equitable apportionment of funding for the reuse financial assistance program and coordination of that program's administration.” **Since statute requires the coordinating body to “integrate” PRO**

³ Proposed WAC 173-950-220: “Review and approval of the coordinated plan and annual report must follow the processes established in RCW 70A.208.060 (5) and (6).” RCW 70A.208.060: “Within 120 days of receipt, the department must review and approve, approve with conditions, deny, or request additional information for a draft plan or draft amendment, including a contingency plan as required in RCW [70A.208.140](#), submitted by a producer responsibility organization or coordinating body”

funding for this program, is it their responsibility to ensure the program is appropriately funded? If so, please make this explicit in the rule language.

To improve the grammar of this section, please revise proposed WAC 173-950-230(2) as follows:

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.	2) Producer responsibility organizations must consult with the department in the development and implementation of the reuse financial assistance program. Consultation shall include the establishment of applicant selection criteria, the evaluation and selection of applicants, and the administration of the program. 3) The producer responsibility organizations must provide for department review of the results and outcomes of the funded reuse projects. (See comments below on this proposed language)
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Proposed WAC 173-950-230(2)

Per proposed WAC 173-950-230(2)(b), PROs must consult with Ecology when developing and implementing this program, “including on providing for department review of the results and outcomes.” **What constitutes “providing for” Ecology review? Is Ecology going to require an annual report by a certain date (and, if so, would the review requirements be consistent with RCW 70A.208.060(6))? Is Ecology able to request access to program data at any time?**

The proposed rule states that Ecology will review the “results and outcomes” of the funded reuse projects.

RCW 70A.208.040(5)(a)(ii) states that the funded amount of the reuse financial assistance program must be “sufficient to achieve the reuse and return rate targets and requirements established in RCW [70A.208.150](#),” and if the funding isn’t sufficient to reach those targets and requirements, “each producer responsibility organization must increase annual contributions to and expenditures from the reuse financial assistance program.”

“Results and outcomes” is broad. While RCW 70A.208.040 does not explicitly address departmental review of funded projects, the intent seems to be that the outcome of

these projects be increased reuse and return rates and other related performance targets. **Please revise “results and outcomes” to something that is more specific and more in-line with the statutory intent.** For example, “The [PROs] must provide sufficient information to the department to determine the impact of funded reuse projects on performance targets established in RCW [70A.208.150](#).” **If the intent is for the PROs to submit this information to Ecology on a regular schedule or in a certain format, please describe that in rule or cite statute if applicable.**

Please let us know if you have any questions.

Sincerely,

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