

September 1, 2026

Solid Waste Management Program Rule Coordinator
Washington State Department of Ecology
Solid Waster Management Program
300 Desmond Drive SE
Lacey, WA 98503

Transmitted via: chris.fredley@ecy.wa.gov

Re: Public Comments on the Recycling Reform Rulemaking (Chapter 173-950 WAC) of the Recycling Reform Act

Dear Chris Fredley,

The Outdoor Power Equipment Institute (“OPEI”) respectfully submits the following comments to the Washington State Department of Ecology (“Ecology”) regarding the public comment period concerning the Recycling Reform Rulemaking (Chapter 173-950 WAC) of the Recycling Reform Act for the extended producer responsibility (“EPR”) regulations. OPEI appreciates the opportunity to comment and the Agency’s engagement with stakeholders on the drafting of the legislation.

OPEI is an international trade association representing more than 100 manufacturers and their suppliers of both gas- and electric-powered outdoor power equipment. and non-road powered engines, personal transport & utility vehicles, golf cars and consumer and commercial outdoor power equipment (“OPE”). OPE includes lawnmowers, garden tractors, trimmers, edgers, chain saws, snow throwers, tillers, leaf blowers and other related products. OPEI member companies and their suppliers contribute approximately \$16 billion to US GDP each year.

The ability for producers to understand their EPR obligations and potential impacts on their respective business within the state of Washington is critical to future operations as the OPE industry is ubiquitous to Washington’s households and businesses. They are sold across the state through a diversity of retail outlets, including national and regional home improvement chains, local hardware stores, e-commerce retailers, and independent dealers. Our member companies have invested significant resources to properly implement extended producer responsibilities and support EPR when

implemented responsibly. OPEI has published an EPR industry position paper that provides legislation recommendations and considerations within the appendix.

Chapter 173-950 WAC Draft Rule Language Concerns:

Section 173-950-110:

- **Producer Duties (1)(c) States:** "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."
 - o **Industry Response:** Any request for data, documents or records should only come after clearly communicated justification for such requests. Acceptable justification for these requests should be limited to sizeable, suspected errors (over 15% by weight of expected error) as well as agreeable methodology for estimating such an error. Producers should be given 30 days to respond.

Section 173-950-120:

- **Individual Producer Plan Requirements (1)(c) States:** "By October of that year, submit an individual plan and a one-time plan review base fee to the department."
 - o **Industry Response:** Please describe how multiple producers can operate under the same Individual Producer Plans ("IPP") without duplicating reporting workload. In Colorado, LPMA operates an IPP with multiple producers involved in the plan following the same format. Please consider how to incorporate this characteristic efficiently, such as by allowing a single organization to submit the IPP on behalf of all participating producers.

Please include language that clarifies that an IPP is something that a producer voluntarily conducts or participates in. Producers should not be compelled to conduct or participate in an IPP as an alternative to the PRO responsibly handling some material. In Colorado, LPMA's IPP was justified and indicated to be compulsory because the PRO could not manage the covered packaging material. This should not be repeated in Washington as that is not the intention of an IPP.

Section 173-950-210:

- **Producer Responsibility Organization Duties (1) States:** "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."

- **Industry Response:** Please include language that clarifies that any approved PRO must be able to manage all covered packaging material and cannot compel producers to manage their own material through an IPP.

Section 173-950-210:

- **Producer Responsibility Organization Duties (3) States:** "Submit a plan to the department as required in RCW 70A.208.130."
 - **Industry Response:** Please include language that requires a 30-day comment period open to Producers for the Program Plan.

In Closing

Thank you for your time and the opportunity to submit our industry feedback to the Ecology open comment period concerning rulemaking reform of the Recycling Reform Act. We collectively welcome the ability to discuss these matters in more detail should you request.

Respectfully submitted,



Brandon Martin
Vice President, Battery Electric Products and Industry Affairs
Outdoor Power Equipment Institute
Phone: (703) 549-7600
bmartin@opei.org

Attachment enclosed.

– APPENDIX –

INDUSTRY POSITION PAPER: EXTENDED PRODUCER RESPONSIBILITY

FOREWORD

From metal content to rechargeable batteries, outdoor power equipment (OPE) utilizes existing market driven networks for end-of-life product management. While Extended Producer Responsibility (EPR) has proven successful in dealing with problem consumer products, not all materials are suited for inclusion in an EPR system.

In the case of outdoor power equipment (OPE) there is a well-established existing market driven reuse - recovery system for OPE that already meets many of the government's policy objectives. Unlike traditional regulated stewardship programs, where a separate collection, transportation and processing system is developed to recycle products, OPE utilizes the existing market driven recycling network for metals. The OPE life cycle of products is extended by the availability of repair parts, the ability of a dealer/retailer network to repair and refurbish, and ultimately extend the life of these inherently intrinsic valued products.

Regulation of OPE could add unforeseen financial and administrative burdens onto manufacturers, suppliers, and consumers of these products which are already being reused, refurbished, collected, and recycled at very high levels.

OVERVIEW

Extended Producer Responsibility is an alternative recycling approach that shifts complete waste handling and processing obligation on producers, distributors, and retailers to manage the end-of-life collection of the products they produce.

[Outdoor Power Equipment Institute](#) (OPEI) is an international trade association representing the manufacturers and their suppliers of all power sources including battery and electric products, non-road gasoline powered engines, personal transport & utility vehicles, golf cars and consumer and commercial outdoor power equipment (OPE). Our industries' products are core critical to the landscape, forestry, and constructions industries.

OPEI recognizes that producers have the right to sell their products in the market and supports a harmonized EPR approach that reduces the amount of solid waste polluting our environment.

Regulations today target specific aspects of products including batteries, products, and product packaging. However, there is not a single harmonized approach, and it is creating unduly demands and cost demands on all producers – including OPE manufacturers.

EPR legislation must consider the exclusion of industries when there are market driven systems already developed or industries that properly manage end-of-life products such

as OPE. When such regulation is being considered then OPEI supports the following recommendations.

EPR Positions

In an effort to support ongoing EPR regulatory developments, OPEI respectfully requests legislators to consider the following:

- EPR programs must provide accessible collection of obligated products on a regular, convenient, and a no collection fee basis.
- Education and consumer outreach must be of any program priority.
- The producer should be well defined to clearly indicate the responsible organization (e.g. local manufacturer, distributor, importer, etc.)
- Facilitation of a competitive marketplace for Producer Responsibility Organizations who are the ultimate waste hauler, and the opportunity for industry and private entities to become Producer Responsibility Organizations (PRO).
- Industry appropriate and consistent approach to determining total EPR contributions based on quality and quantity of materials.
- Clear guidelines and qualifications on how to become and operate a Producer Responsibility Organization.
- EPR legislation must provide opportunities for environmental handling fee (EHF)
 - Fees help eliminate most “free rider” concerns.
- EHF funds should be administered by a third-party to fund collection and recycling.
- Collection targets should not be dictated by certain dates but set economically and technically feasible performance goals.
- Minimize any product carve outs.
- Cover products that are sold or offered for sale that include retail, wholesale, business-to-business, and online sales.
- Responsible reporting incentives for producers in either price cuts or rebates.
- Empower regulators with the ability to adapt with market changes through the amendments of deadlines, protection against bad actors, and products regulated. Ability to use graduated actions for bad actors.
- Open public communication and dialogue where PROs and obligated producers have the ability to discuss market issues or involvement with regulators.
- Clearly define any product and material qualifications, size of the market, and the location of where PROs can collect obligated products.
- Clearly defined monitoring system to ensure PROs and producers are reporting accurately without the use of audits.
- Recognition that products can easily flow across state/province borders to allow ease of recycling.
- Easily accessible conflict resolution mechanisms that is clearly communicated.
- Include emergency response exceptions to adapt to external conditions that may impact normal recycling operations.
- Any PROs shall adhere to plain language classification standards including and not limited to product pricing.

- In the event that a PRO fails to meet their obligations, the producer shall have protective rights until their PRO issues are resolved or a contract with another PRO is established.

Packaging

- Packaging that is kept for storing or to protect the product should not qualify as an obligated material (e.g. carrying case or storage box).
- Reusable transport packaging should not qualify as an obligated material.
- Packaging that is used toward transporting, example to the dealer or seller, should not get passed on to the consumer for recycling and there should be exempted.
- Materials that are readily recyclable should be exempted.