



September 2, 2026

Chris Fredley

SWM Program Rule Coordinator
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

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

Dear Mr. Fredley:

The American Coatings Association (ACA) submits the following comments to the Washington State Department of Ecology (Ecology) regarding the agency's proposal to adopt new regulations, sections of chapter 173-950 WAC (Proposed Regulations). ACA is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry and coatings science. ACA appreciates the opportunity to comment and looks forward to working with Ecology throughout the rulemaking process.

ACA provides the following recommendation to alleviate any undue burden imposed on the paint and coatings industry.

- 1. Clarify that the definition for 'exempt materials' under § 173-950-030(19)(k) of the Proposed Regulations refers to packaging associated with products subject to the state's PaintCare program.**

To determine one's obligations under Washington's packaging extended producer responsibility (EPR) law, members of the paint and coatings industry are required to ascertain whether they are a producer of covered material. Section 173-950-030(13)(b) of the Proposed Regulations provides that the term 'covered material' does not include exempt materials. Section 173-950-030(19)(k) provides that the term 'exempt materials' includes "[p]ackaging that is associated with products managed through [an approved] paint stewardship plan." ACA appreciates that this language recognizes that leftover paint and paint containers should be managed by an approved paint stewardship program. However, we are concerned that use of the phrase "managed through" could be misconstrued to exempt only a portion of the containers sold. In Washington's PaintCare program, leftover paint and their containers are collected and managed responsibly as required by law and described in the approved Washington Paint Stewardship Program Plan. From 2023-2025, the Washington program annually collected an average of 1,000,000 gallons of paint and recycled 1,212,000 pounds of metal and plastic containers.



PaintCare's program vendors in Washington already bill the program for responsibly managing the end-of-life of all processed containers, which is reflected in the PaintCare assessment that is applied to each program product. Ultimately, if these containers are not clearly provided for within the definition of 'exempt materials' under the Proposed Regulations, it will result in there being redundant fees (fees in addition to the PaintCare assessment) imposed on these products. Thus, to avoid confusion, promote efficiency, and prevent double coverage of these containers by two different EPR systems and the imposition of a duplicative fee, ACA urges Ecology to clarify that the definition under section 173-950-030(19)(k) of the Proposed Regulations refer to the following: "packaging that is associated with products subject to a paint stewardship plan approved under chapter 70A.515 RCW."

Thank you for your consideration of ACA's comments. Please do not hesitate to contact me should you have any questions and/or require further clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Annebelle Klein". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Annebelle Klein

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