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Expanded Polystyrene Industry Alliance (EPS-IA)
Comments on August 19, 2026 Draft Recycling Reform Rule Language
Chapter 173-950 WAC

The EPS Industry Alliance (EPS-IA) submits these comments to assist the Washington Department of Ecology in developing Recycling Reform Act regulations that accurately identify, measure, and build upon recycling activity already occurring in Washington.

EPS-IA's experience with expanded polystyrene (EPS) recycling highlights three implementation issues that warrant clarification as Ecology develops chapter 173-950 WAC: **material categories must be sufficiently granular to reflect materially different recycling pathways; recycling occurring outside producer responsibility organization (PRO) channels must be capable of recognition; and absence of reported data should not be equated with absence of recycling.**

These issues are particularly relevant to proposed WAC 173-950-120, which requires an individual plan to establish performance targets, describe collection methods and processing infrastructure, and explain how recycling will be measured for each covered material type.

1. Material Categories Should Be Sufficiently Granular to Reflect Different Recycling Pathways

The effectiveness of material-specific performance measurement depends upon defining material categories at a level that reflects meaningful differences in collection, processing, and end markets.

EPS transport and protective packaging provides a useful example. Clean molded EPS used to protect appliances, electronics, furniture, medical equipment, and similar products can be source separated, consolidated, densified, and mechanically recycled through established collection systems. Its collection characteristics and recycling pathways differ substantially from food-service EPS, loose-fill packaging, and other foam packaging commonly conflated with mechanically recyclable EPS.

EPS-IA previously raised this issue in comments on Ecology's preliminary statewide collection lists and requested that **EPS transport and protective packaging be evaluated separately from the broader "#6 EPS Non-food Packaging" category and included on the Alternative Collection List.**

That distinction also matters in this rulemaking. Proposed WAC 173-950-120 requires plans to identify covered material types and, for each type, establish performance targets, describe collection and processing infrastructure, and measure recycling and other outcomes. If materially different products are combined within categories that are too broad, the resulting data may obscure successful collection and recycling pathways rather than accurately measure them.

The issue may also affect the commercial-material exemption incorporated into the draft definition of "exempt materials." That provision requires a producer seeking the exemption to demonstrate specified statewide recycling rates for the material. A material category used for measurement should therefore be sufficiently specific to ensure that the recycling rate being measured actually corresponds to materials with comparable collection and recycling characteristics.

Recommendation: Ecology should clarify that covered material types used for planning, performance measurement, and demonstration of recycling rates may be differentiated where materials within a broader resin or packaging category have materially different collection, processing, or responsible-market characteristics. EPS transport and protective packaging should be treated as such a distinct category.

2. Recycling Occurring Outside PRO-Established Channels Must Be Capable of Recognition

Washington's EPR system will not begin with a blank slate. Recycling systems already exist and operate independently of the future PRO.

EPS provides a good example. EPS recycling can occur through commercial generators, municipal or community drop-off programs, independent collectors, consolidation operations, densifiers, recyclers, brokers, and downstream manufacturers. These relationships may have developed independently of producers and may continue operating outside PRO-funded or PRO-contracted collection systems.

Proposed WAC 173-950-120 requires plans to describe how recycling will be measured and how postconsumer materials will be monitored to ensure delivery to responsible markets. The resulting methodology should be capable of recognizing legitimate recycling occurring through existing independent channels.

Otherwise, Washington could produce the anomalous result that material successfully recycled before implementation of EPR effectively disappears from measured recycling performance after implementation simply because the transaction occurs outside the PRO's contractual network.

The regulations should instead encourage PROs to identify, complement, and expand successful existing recycling systems. This is particularly important for materials such as EPS transport packaging that are better suited to source-separated, drop-off, commercial, or other specialized collection than to conventional commingled curbside collection.

Recommendation: Ecology should clarify that recycling may qualify toward applicable recycling measurements and performance determinations regardless of whether the material traveled through a PRO-funded or PRO-contracted collection channel, provided there is reasonable evidence that the material was recycled at a responsible market consistent with the Act. Furthermore, it should be recognized that subsets of the material categories should be recognized when appropriate to develop circularity pathways that advance the objectives of the program.

3. Absence of Reported Data Should Not Be Equated With Absence of Recycling

Existing EPS recycling data illustrate a related measurement challenge.

Research conducted for EPS-IA by Resource Recycling Systems (RRS) in 2022 identified **five Washington entities recycling EPS**. EPS-IA subsequently sought recycling-volume information through its voluntary industry recycling survey.

For 2024, one of those entities, Styro Recycle, reported processing approximately **510,000 pounds of post-consumer EPS**.

That quantity establishes a **documented minimum. It does not establish the total amount of EPS recycled in Washington.**

EPS-IA did not obtain corresponding quantitative data from the other entities identified in that research. These are independent entities. EPS-IA does not have authority to compel them to participate in its voluntary survey or disclose proprietary operating information.

It would therefore be unsupported to assign those entities a recycling quantity of zero merely because EPS-IA did not receive quantitative data from them.

Indeed, the combination of affirmative recycling data from one known recycler and the existence of additional identified recycling entities for which quantitative data were not obtained demonstrates an important distinction between **reported recycling and actual**

recycling. The available information establishes that recycling occurs while simultaneously showing that the available quantitative dataset is incomplete.

The same problem may arise under an EPR program. Producers and PROs can be required to report information they possess and can reasonably be expected to obtain. But some recycling may occur through independent market participants that are not under producer or PRO control and from which complete facility-specific information may not be available.

A measurement methodology that treats unavailable third-party data automatically as zero could systematically understate actual recycling performance, particularly where the quantity of material introduced into Washington is comprehensively measured through mandatory producer reporting while the recycling side of the calculation depends in part on voluntary or independently held downstream information.

Recommendation: Ecology should distinguish between **zero recycling, documented recycling, and recycling for which the quantity has not been independently quantified**. Absence of third-party reporting should not, standing alone, be treated as evidence that no recycling occurred. Ecology should allow reasonable alternative evidence and estimation methodologies where appropriate and should consider mechanisms for obtaining recycling information directly from independent market participants when such information is necessary for statewide performance measurement.

Conclusion

EPS-IA's recommendations are intended to help Ecology develop a system that measures **actual environmental performance rather than merely the portion of that performance visible through a particular reporting channel**.

As Ecology develops chapter 173-950 WAC, EPS-IA recommends that the Department:

1. **Provide sufficient material-category granularity** to distinguish materials with different collection, processing, and responsible-market characteristics, including EPS transport and protective packaging;
2. **Ensure that legitimate recycling occurring outside PRO-established channels can be recognized** in recycling-rate and performance measurements; and
3. **Distinguish absence of recycling from absence of complete recycling data**, including by recognizing documented minimums and providing reasonable methods for addressing recycling activity conducted by independent entities.

These clarifications would help Washington's EPR program build upon existing recycling infrastructure rather than inadvertently render that infrastructure invisible. They would also

improve the accuracy of future performance measurements by ensuring that regulatory data reflect, as closely as practicable, what is actually being recycled.

EPS-IA is available to provide Ecology with additional information concerning EPS collection, densification, mechanical recycling, responsible markets, and industry recycling data as the Department continues development of the Recycling Reform Rule.

Respectfully submitted,

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