Consumer Brands Association (Will Grassle)

Attached, please find the Consumer Brands Association's Comment Letter on the Recycling Reform Act Rulemaking Comment Period #2.

September 2, 2026

Mr. Casey Sixkiller
Director
Washington State Department of Ecology ("Ecology")
300 Desmond Drive SE
Lacey, WA 98504-7600
Submitted via online portal at - [Recycling Reform Rulemaking - Chapter 173-950 WAC - Comment Period #2]

Re: Consumer Brands Association Comments on Recycling Reform Act – Chapter 173-950 WAC – Comment Period #2

Dear Mr. Sixkiller,

Consumer Brands Association ("Consumer Brands") is appreciative of the opportunity to submit comments regarding Ecology's Meeting #1 and #2 rule language to guide the implementation of Washington's Recycling Reform Act ("RRA"). We are committed to supporting the goals of the RRA and welcome Ecology's stakeholder engagement in this initial rulemaking process. Our comments focus on ensuring that the regulations are administrable, aligned with statutory intent, and harmonized with other state EPR programs to support efficient multi-state compliance.

The Consumer Brands Association champions the industry that makes the products consumers choose and the brands they trust. From household and personal care to food and beverage products, the consumer packaged goods (CPG) industry plays a vital role in powering the U.S. economy, contributing $2.5 trillion to U.S. GDP and supporting 22.3 million American jobs. The CPG industry's number one priority is delivering safe, affordable, and convenient products to consumers every day. But the industry also plays a crucial role in reducing packaging waste and increasing recycling in the U.S. According to recent data, industry-led source reduction efforts have decreased U.S. packaging volume by about five million metric tons between 2019 and 2024. Consumer Brands is also leading a broad-based coalition, the Recycling Leadership Council, committed to modernizing recycling standards and reducing plastic waste. Driven by innovation and collaboration, CPG companies are full-speed ahead on working towards a zero-waste, circular economy.

While Consumer Brands is appreciative of many provisions outlined in both the meeting #1 and #2 rule language, we believe the following are opportunities for improvements to ensure the successful implementation of the RRA:

1. <u>Inequitable Funding of Reuse Financial Assistance Program</u>

Issue:

Although Consumer Brands recognizes the importance of scaling reuse and refill programs in Washington, we have concerns regarding the funding and ultimate implementation of Washington's reuse financial assistance program. As outlined in subsection (1) of section 173-

950-230, producer responsibility organizations (PROs) must collectively finance and implement a reuse financial assistance program in Washington. Consumer Brands' concerns do not stem from the establishment of this reuse program, but from the program's apparent uniform funding approach, which does not recognize the disparate capacity for reuse and refill among various packaging formats and product categories. As written, the reuse financial assistance program appears to require all producers to fund the program, even though some producers will not benefit from a scaled reuse program as their products are not applicable or able to be incorporated into a reuse program. Ultimately, some producers will be required to subsidize the reuse program that they themselves will not benefit from.

Recommended Solution:
Consumer Brands encourages Ecology to ensure funding mechanisms for the reuse financial assistance program appropriately recognize the disparate technical feasibility of reuse and refill across product types and do not overburden producers who won't benefit from the program.

2. Onerous Record Keeping Retention Requirements

Issues:

The obligations outlined in paragraph (a) of subsection (2) of section 173-950-210 and in paragraph (b) of subsection (1) of section 173-950-110 of the draft rule language require individual producers and the PRO to maintain all records or documentation necessary to prove compliance with the RRA for a minimum duration of 7 years. Most record-keeping retention obligations at the federal level are no more than 5 years, and, similarly, Oregon and Colorado's EPR laws require a 5-year retention period. Requiring anything longer than 5 years imposes excessive and costly administrative burdens.

Recommended Solution:
Although Consumer Brands strongly supports transparency in these programs, to ensure compliance feasibility and harmonize with other state EPR laws, Consumer Brands recommends limiting producer and PRO record-keeping retention periods to 5 years.

3. Burdensome Collection Convenience Requirements for Individual Producer Plans

Issue:

Although Consumer Brands is supportive of the allowance of alternative collection and individual producer programs to effectively manage packaging materials and paper products that are poorly suited for curbside recycling systems, the collection convenience requirements of these programs, outlined in paragraph (c) of subsection (2) of section 173-950-120, are of particular concern. Individual producer programs and alternative collection programs are meant to be tailored for unique materials not suitable for curbside collection programs; requiring infrastructure in every county regardless of the actual material generation or recycling service demand creates inefficiencies by directing resources away from where they are most needed, ultimately diminishing environmental outcomes. Requiring individual producer programs and alternative collection programs to establish drop-off sites in every Washington county risks increasing program expenditures without any corresponding increase in collection or recycling.

Recommended Solution:
Consumer Brands recommends that Ecology reevaluate the collection convenience requirements for individual producer programs and alternative collection programs. Obligated producers should have the flexibility to design systems that maximize actual collection and environmental outcomes for each material category, rather than being required to blindly establish collection sites that will only marginally increase the collection of materials not suited for curbside recycling. Alternatively, Consumer Brands would encourage Ecology to provide flexibility in permitting mail-back, retail-based collection systems, or other reverse logistics systems to count towards collection site requirements.

4. **Unnecessary Exemption Justification for Packaging Associated with OSHA Classified Products**

Issue:
While Consumer Brands is supportive of the exempt materials list outlined in subsection 19 of section 173-950-030, we have serious concerns regarding the current framework for qualifying exemptions on packaging associated with OSHA classified products. As written in paragraph (j) of subsection 19 of section 173-950-030, producers of OSHA classified products would have to prove to Ecology that OSHA standards "prevent the packaging from being reduced or made reusable, recyclable, or compostable," to justify an exemption, requiring Ecology to make case-by-case determinations regarding whether specific products packaging qualify. Further, the draft rule provides no criteria, documentation requirements, application processes, timelines, or appeal mechanisms to support these determinations.

Requiring product-by-product reviews would create a significant administrative burden for both producers and Ecology and could result in inconsistent outcomes and regulatory uncertainty. California's program has already addressed this issue, providing a categorical exemption for all packaging associated with OSHA classified hazardous and flammable products, without producers needing to provide additional justification. This framework is already in place in California and is familiar to producers and CAA, the same PRO that will be administering Washington's program.

Recommended Solution:
Consumer Brands recommends that Ecology follow the approach used in California under SB 54, exempting all packaging associated with OSHA-classified hazardous and flammable products, without requiring further justification. If Ecology is unwilling to adopt a categorical exemption for OSHA-classified products, we strongly encourage Ecology to establish a transparent and administrable process in rule that: 1. Establishes objective criteria for determining exemption eligibility; 2. Provides a reasonable review timeline and allows producers to rely on a claimed exemption while a complete submission is under review; 3. Allows producers to identify exempt materials through the PRO rather than through Ecology; and, 4. Provides notice and an opportunity to respond before an exemption is denied.

Thank you for the opportunity to comment on Ecology's meeting 1 and 2 draft rule language to guide the implementation of the RRA. Please do not hesitate to contact me if you have any questions regarding this request. I can be reached at ERaden@consumerbrandsassociation.org.

Sincerely,

Erin Raden

Senior Director of State Affairs
Consumer Brands Association