

EPR Leadership Forum (Alchemy Graham)

Please see the attached for comments submitted by the EPR Leadership Forum. Thank you.

September 2, 2026

Attn: Chris Fredley
Solid Waste Management Program Rules Coordinator
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Submitted via electronic portal.

RE: Recycling Reform Act Rulemaking: Chapter 173-950 WAC.

Dear Mr. Chris Fredley:

On behalf of the EPR Leadership Forum (ELF), thank you for your work on developing the pre-draft rules for the Recycling Reform Act (RRA). ELF was actively engaged in the development and passage of the RRA in 2025 and appreciates the opportunity to engage constructively during the rulemaking process. Founded in 2024, ELF brings together leading manufacturers and retailers of consumer-packaged goods that are supportive of well-designed packaging EPR policies. Our mission is to collaborate with stakeholders and policymakers across the country by engaging proactively on legislation that aligns EPR programs with our core principles.

The EPR Leadership Forum appreciates the opportunity to engage with the Department on the Draft Rules and look forward to continued engagement as the rulemaking process continues. We wish to request additional clarification on the statutory exemption for OSHA-regulated packaging and the definition of “refill”.

173-950-030 Definitions

Exempt Materials

As passed, the Recycling Reform Act adopts an uncommon definition of “exempt materials” that includes a clause authorizing additional agency review of the statutory definition:

*“Packaging used to contain hazardous or flammable products classified by the 2012 federal occupational safety and health administration hazard communication standard, 29 C.F.R. Sec. 1910.1200 (2024), that prevent the packaging from being reduced or made reusable, recyclable, or compostable, **as determined by the department.**”*

More commonly adopted provisions clearly and concretely correlate exempt packaging materials to federal OSHA standards without granting the state additional decision-making authority. See California's packaging EPR law:

"Notwithstanding paragraph (1), "covered material" does not include any of the following...Packaging used to contain hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communications Standard (29 C.F.R. 1910.1200)."

As packaging EPR programs continue to emerge nationwide, producers increasingly need clear and harmonized program frameworks to successfully scale compliance efforts across several states. Washington's definition as passed in not harmonized with other states, and as confirmed by other EPR programs, additional agency oversight for statutory definitions is redundant and unnecessary. This will create significant administrative burdens for the Department and if left unaddressed during the rulemaking process, producer registration processes and compliance will also be impacted.

The RRA contains provisions requiring the Department to establish rules that are harmonized with other states [RCW 70.A.208.060 (7)(j)]. For this reason, we respectfully request clarification in the Final Rules indicating that the Department will interpret and enforce the exemption as "packaging that is regulated by OSHA." This would confirm and codify a streamlined understanding of the definition and prevent fragmentation across states.

Reuse and Refill

As seen in all other enacted packaging EPR programs, "reuse and refill" is commonly authorized as a means for producers to meet source reduction targets. Washington's law allows this as well; however, the bill does not provide a clear definition of the term "refill". To avoid fragmentation of national EPR efforts, we urge the Department to provide necessary clarification by adopting a harmonizable definition for "refill" for inclusion in the Final Rules. An ideal definition would reflect all market-adopted refill methods, including refill-at-home and refill-on-the-go:

"Refill" means:

- (a) For a covered material that is refilled by a producer, it satisfies all of the following:*
 - (1) Explicitly designed and marketed to be utilized multiple times for the same product, or for another purposeful packaging use in a supply chain.*
 - (2) Designed for durability to function properly in its original condition for multiple uses.*
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- (3) Supported by adequate infrastructure to ensure the packaging or food service ware can be conveniently and safely reused or refilled for multiple cycles.*
 - (4) Repeatedly recovered, inspected, and repaired, if necessary, and reissued into the supply chain for reuse or refill for multiple cycles.*
 - (5) Compliant with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing health and safety.*
- (b) For a covered material that is refilled by a consumer, it satisfies all of the following:*
- (1) Intentionally designed and marketed:*
 - (A) for repeated use to reduce demand for new production of the covered material, or*
 - (B) for another purposeful use by the consumer.*
 - (2) Supported by adequate logistics and infrastructure to provide convenient access for consumers."*

We thank you for the time and effort the Department of Ecology has taken and will continue undertaking to establish rules for the Recycling Reform Act. The EPR Leadership Forum welcomes the opportunity to serve as a collaborative resource during these rulemaking discussions. For questions or to discuss our comments, please contact me at agraham@epr-leaders.org. You can also find more information about the EPR Leadership Forum and our core principles on our website at <https://www.epr-leaders.org>.

Sincerely,



Alchemy Graham
Policy Director
EPR Leadership Forum
