Auto Care Association (Grant MacIntyre)

Please see attached comments from the Auto Care Association.

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The Auto Care Association appreciates the opportunity to provide comments on the proposed rulemaking language for Chapter 173-950 WAC and appreciates the iterative, collaborative process for this rulemaking.

The Auto Care Association represents the entire spectrum of the motor vehicle aftermarket, including manufacturers, distributors, retailers, and service providers that support the maintenance and repair of vehicles across the United States. Our members produce and distribute a wide array of consumer-facing products—such as motor oil, filters, cleaning chemicals, replacement parts, and accessories—all of which rely on packaging that is subject to emerging extended producer responsibility (EPR) requirements.

In Washington, the automotive aftermarket is responsible for 38,411 jobs, 8.1 billion dollars of economic activity, and 3.1 billion dollars of wages. There are over 10,000 facilities in Washington connected to the automotive aftermarket.

Our industry is committed to improving environmental outcomes and advancing responsible materials management. At the same time, we are concerned that Washington's EPR framework creates substantial compliance burdens, increases costs for consumers, and disrupts national supply chains that deliver essential products. We offer these comments in the spirit of cooperation and in furtherance of harmonization with other EPR programs.[1]

The Automotive Aftermarket is an Environmental Leader

The automotive aftermarket has long been engaged in responsible product lifecycle management. The sector has invested heavily in recycling and closed-loop systems (e.g., used oil collection programs, battery collection programs), packaging innovation, and supply chain efficiency.

We support pragmatic, results-oriented approaches that acknowledge these efforts and deliver measurable improvements in recycling and waste reduction. However, implementation must

[1] We understand that Ecology is focused on comments specific to the regulatory language proposed for this workgroup session. But it is important to note several basic concerns with Washington's EPR program including the lack of transparency into PROs and ACPs, being forced into private contracts with private organizations through the power of the State, the lack of advance notice as to fees, assigning fees based on data from two years prior which makes it impossible for companies to modify behavior to avoid fees, restrictions on speech preventing companies from letting consumers know why their goods are more expensive, small business exemptions that are tied to global sales rather than Washington-specific tonnage, and using fees collected from the program to send messages regarding the quality or content of companies products that are contrary to how the companies would describe their products.

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reflect operational realities of the auto care sector, particularly the complexity of packaging supply chains and the interstate nature of product distribution.

The Draft Language Should Better Clarify Private Label Responsibility

Ecology should better clarify brand and private label responsibility in these regulations. The rule is unclear who has the responsibility under several common contractual arrangements including contract manufacturing, private label arrangements, retailer brand ownership, and co-branding situations. Other states make it clearer that a licensee of a brand only takes EPR responsibility when the licensee itself directs the manufacture and sale of the licensed product. In the spirit of harmonization, Ecology should modify the language to reflect that and harmonize with other EPR programs.

Recordkeeping provisions should be clarified and minimized to reduce burden while retaining value

Ecology should clarify record keeping requirements in the rulemaking and be specific to what records must be maintained. We encourage Ecology to narrow this provision as much as possible and in the spirit of harmonization align with existing business recordkeeping practices. There is no need to create duplicative (or worse) requirements, particularly when companies are faced with EPR compliance across several distinct states and in some states multiple PRO-like organizations.

Rather than a requirement to maintain "all documents and records necessary to ensure compliance," Ecology should require companies to maintain "documents consistent with their internal records management system where available." Businesses already keep records that would support compliance with EPR and other regulatory requirements – adding a requirement would increase compliance burden and resources expended by Washington for little to no additional benefit.

Alternative Collection Programs Should Be Required to Coordinate with PROs

We appreciate the efforts to require coordination between PROs. But the language should be clarified and revised to ensure that the same or greater level of coordination is required from Alternative Collection Programs.

Our industry would be directly impacted by the Alternative Collection Program proposed by Interchange 360. There is a similar structure in place in Colorado. What that has meant on the ground is duplicative reporting obligations, excessive fees, and confusion between regulators, the

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PRO, and the ACP as to who is responsible for which waste. This creates wasteful spending and endless wasted work hours across the private and public sectors.

Washington should revise the regulations to ensure that ACPs must coordinate with PROs and require that coordination to take place *prior* to fee assignment or invoicing.

General Remarks

Ecology should also:

- Clarify the process and criteria for determining whether packaging for hazardous or flammable products qualifies for exemption under RCW 70A.208.020(19)(j). The rule should identify acceptable documentation and provide objective criteria to ensure consistent implementation across producers.
- Establish clear methodologies for demonstrating commercial recycling and reuse rates under the exempt material provisions.
- Develop standardized reporting methodologies to ensure consistency among producers and PROs and minimize administrative burdens.

Conclusion

Thank you again for the opportunity to provide comments on the selected regulatory text. We appreciate the transparency and deliberative process and look forward to participating in additional rulemaking sections.

Donovan Ringo

Donovan Ringo

Director, State Affairs

Auto Care Association