EPR Leadership Forum (Alchemy Graham)

Please see the attached for comments on the Preliminary Needs Assessment submitted by the EPR Leadership Forum. Thank you.

EPR LEADERSHIP FORUM

October 30, 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 Preliminary Needs Assessment.

Dear Mr. Chris Fredley:

On behalf of the EPR Leadership Forum (ELF), I am writing to provide our feedback on the Preliminary Needs Assessment developed by the Department of Ecology (Ecology). ELF was actively engaged in the development and passage of the RRA in 2025 and appreciates the opportunity to engage constructively during the rulemaking and program development 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. As part of this, the EPR Leadership Forum supports packaging EPR policies and rules that are clear and, to the extent possible, harmonized with similar programs being developed around the country. After reviewing the Preliminary Needs Assessment, ELF is requesting changes that support these core principles: we are urging Ecology to fill self-identified data gaps and establish much-needed alignment and clarity on several program elements.

Throughout the Preliminary Needs Assessment, Ecology reiterates the challenges of measuring both the recycling-related activity Washingtonians currently engage in and the existing infrastructure in place that would support an expanded recycling system. This challenge is directly related to the frequently mentioned shortage or inaccessibility of various data points. Generally, data collected during the needs assessment process is intended to inform performance targets that are later codified in the Program Plan. However, with insufficient data collection, the resulting objectives and timelines are more likely to be unachievable, and producers are more likely to be held responsible for meeting those unfeasible targets. This is an issue that producers are currently facing in California due to the outdated and/or inaccurate data used to inform final targets and timelines. Similarly, producers report facing this predicament when needs assessments establish data figures based on models rather than concrete data collected. For these reasons, we urge Ecology to collect, analyze, and present sufficient data with appropriate geographic detail to accurately reflect Washington's geographical diversity and establish a solid foundation for final target development in the Program Plan.

Another particularly effective change would be providing much-needed clarity on the program's current definitions. As an example, clarifying the statutory exemption for federal Occupational Safety and Health Administration (OSHA) covered materials would create consistency across

state programs and enable service providers to provide more precise data when reporting. Further, it would encourage more seamless producer reporting during program implementation. As packaging EPR programs continue to emerge nationwide, service providers and producers increasingly need clear and harmonized program frameworks to successfully scale compliance and reporting efforts across state lines. Unfortunately, because Washington's definition of "exempt materials" is not harmonized with other states, the challenges highlighted in the Preliminary Needs Assessment are perfect examples of the administrative burdens inconsistencies like this creates. As indicated in our previous comment letter on pre-draft rules (dated September 2, 2026), we strongly encourage Ecology to clarify the Department's interpretation of the definition of exempt materials under OSHA to eliminate ambiguity and support harmonization efforts. Similarly, we encourage Ecology to clarify a standardized interpretation of the "reuse" and "refill" definitions to further support a seamless data sharing and collection process. Also as referenced in our previously submitted comments, we would recommend borrowing from Minnesota's reuse and refill definitions, as they are more widely adopted across packaging EPR programs in the U.S. and thus, are more supportive of a streamlined nationwide EPR network.

In keeping with our core concerns about clarity and harmonization, we would like to call attention to mismatched statutory and regulatory definitions as displayed by the data presented in the Draft Preliminary Needs Assessment. Per the Recycling Reform Act (RRA), "covered materials" are defined as "packaging and paper products introduced into the state", and "packaging" is defined as "material, substance, or object that is used to protect, contain, transport, serve, or facilitate delivery of a product and is sold or supplied with the product to the consumer for personal, noncommercial use." Necessarily, neither "packaging" nor "covered materials" include transport packaging or tertiary packaging, as these components are not sold or supplied to the consumer for personal, noncommercial use. However, in "Section 5.3: Supporting Analysis", Ecology reports on Table 13 that "wooden pallets, crates, and other packaging" are among many of the covered materials collected from residences in 2024. This is a contradiction that should be addressed to prevent further confusion during data collection and future producer reporting. Given that the RRA is intended to target residential recycling streams, all B2B tertiary, transport, or other packaging that does not reach consumers should not require any reporting, quantification, recordkeeping, or applications for exemptions under this regulation. To properly support the recycling system, producers must be able to continue utilizing these materials to sell to recyclers, use as feedstock, etc. We strongly encourage Ecology to clarify this discrepancy in the Final Needs Assessment to avoid mischaracterization and overreporting of materials that are not subject to regulation under the RRA.

Collecting statewide data to support the development of a new recycling system is a complex feat, as Ecology has acknowledged in the Preliminary Needs Assessment. To help facilitate this process, we urge Ecology to remain persistent in collecting and analyzing strong, usable data. We would encourage exploring opportunities to partner with the PRO to ensure all data collected is robust and effective in developing an optimal Program Plan. We also urge the Department to utilize the rulemaking process to add clarity and specificity to further support more robust data collection and delivery of a sustainable packaging EPR program.

We thank you for your consideration of our comments and the time and effort the Department of Ecology has taken and will continue undertaking to establish a statewide packaging EPR program. The EPR Leadership Forum welcomes the opportunity to serve as a collaborative resource throughout this process. 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