August 19, 2026 – Recycling Reform rule committee meeting

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Question for reviewers/commentors:

Is there anything in the following sections that we need to add or clarify from statute?

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MEETING #1 RULE LANGUAGE

173-905-000 GENERAL

173-950-010 Purpose

Chapter 173-950 WAC, referred to as the Recycling Reform Rule, establishes an extended producer responsibility program for packaging and paper products.

173-950-020 Applicability

(1) **General applicability.** This chapter applies to:

(a) A producer who introduces covered materials into the state of Washington;

(b) A producer responsibility organization, including a producer that registers with the department as a producer responsibility organization to implement an individual plan;

(c) A service provider that provides covered services for covered materials to covered entities; and

(d) Until 2034, a group of producers that registers to implement an alternative collection plan.

(2) **Materials subject to this chapter**. This chapter applies to covered materials.

(3) **Exclusions from applicability**.

(a) *Exempt materials*. This chapter does not apply to exempt materials defined in RCW 70A.208.020(19).

(b) *Excluded materials*. This chapter does not apply to materials temporarily excluded by the department under RCW 70A.208.260.

(b) *De minimis producers*. This chapter does not apply to an entity that qualifies as a de minimis producer, based on the volume of covered materials introduced, global gross revenue thresholds (adjusted annually for inflation beginning January 1, 2031), or status as a qualifying agricultural employer as defined in RCW 70A.208.020(16).

(c) *Government and charitable entities*. This chapter does not apply to government entities or to organizations registered under 26 U.S.C. Sec. 501(c)(3) or 501(c)(4) as defined in RCW 70A.208.020(20).

(d) *Excluded covered services*. Except with respect to contamination, this chapter does not apply to resource recovery through mixed municipal solid waste composting or incineration, or to land disposal.

(4) **Relationship to the statute**. The definitions in RCW 70A.208.020 apply throughout this chapter. In the event of a conflict between this chapter and chapter 70A.208 RCW, the statute controls.

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173-950-030 Definitions

Note: Selected definitions from RCW 70A.208.020 are copied from statute below (and retain the definition numbering from the law) – NEW or REVISED language is noted w/underline/~~strikeout~~.

(12) **"Covered entity"** means a person or location that receives covered services for covered materials in accordance with the requirements of this chapter, including:
(a) A single-family residence;
(b) A multifamily residence; and
(c) A public place where a government entity managed recycling collection receptacles as of August 1, 2025, and any additional public place identified in an approved plan.

(13) (a) **"Covered material**" means packaging and paper products introduced into the state.
(b) "Covered material" does not include exempt materials.

(15) (a) "**Covered services**" means collecting, transferring, transporting, sorting, processing, recovering, preparing, or otherwise managing for purposes of waste reduction, refill, reuse, recycling, composting, or disposal of contamination or residuals.
(b) Except with regard to contamination, "covered services" do not include:
(i) Resource recovery through mixed municipal solid waste composting or incineration; or
(ii) Land disposal.

(16) "**De minimis producer**" means a producer that:
(a) In their most recent fiscal year introduced less than one ton of covered materials;
(b) Has a global gross revenue, not including on-premises alcohol sales, for the prior fiscal year of:
(i) Until January 1, 2031, less than $5,000,000; or
(ii) Beginning January 1, 2031, less than $5,000,000, as adjusted for inflation. The department must use the consumer price index for urban wage earners to calculate the annual rate of inflation adjustment effective January 1st of each year, beginning January 1, 2031; or
(c) Is an agricultural employer, as defined in RCW 19.30.010, regardless of where the agricultural employer is located, with less than $5,000,000, as adjusted for inflation as described in (b) of this subsection, in gross revenue in Washington from consumer sales of agricultural commodities sold under the brand name of the agricultural employer.

(19) "**Exempt materials**" means materials, or any portion of materials, that are:
(a) Packaging for infant formula, as defined in 21 U.S.C. Sec. 321(z);
(b) Packaging for medical food, as defined in 21 U.S.C. Sec. 360ee(b)(3);
(c) Packaging for a fortified oral nutritional supplement used by persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined by the *International Classification of Diseases*, tenth revision;
(d) Packaging for a product regulated as a drug, medical device, or dietary supplement by the United States food and drug administration, including associated components and consumable medical equipment, under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 321 et seq.), or a product regulated as a biologic or vaccine by the United States food and drug administration under the public health service act (42 U.S.C. Sec. 201 et seq.);

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(e) Packaging for a medical equipment or product used in medical settings that is regulated by the United States food and drug administration, including associated components and consumable medical equipment;
(f) Packaging for drugs, biological products, parasiticides, medical devices, or in vitro diagnostics that are used to treat, or that are administered to, animals and are regulated by the United States food and drug administration under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) and by the United States department of agriculture under the federal virus-serum-toxin act (21 U.S.C. Sec. 151 et seq.);
(g) Noncompostable film plastic packaging used in direct contact with raw meat;
(h) Packaging for products regulated by the United States environmental protection agency under the federal insecticide, fungicide, and rodenticide act (7 U.S.C. Sec. 136 et seq.);
(i) Packaging used to contain liquefied petroleum gas and are designed to be refilled;
(j) 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;
(k) Packaging that is associated with products managed through a paint stewardship plan approved under chapter 70A.515 RCW;
(l) Excluded materials, as determined by the department under RCW 70A.208.260;
(m) Used to protect or store a durable product for a period of at least five years;
(n) Packaging used for bulk construction materials;
(o) Covered materials that:
(i) A producer distributes to another producer;
(ii) Are subsequently used to contain a product and the product is distributed to a commercial or business entity for the production of another product; and
(iii) Are not introduced to a person other than the commercial or business entity that first received the product used for the production of another product; and
(p) Covered materials for which the producer demonstrates to the department that the covered material meets all of the following criteria:
(i) The material is not collected through a residential recycling collection service;
(ii) The material is recycled at a responsible market;
(iii) The material is intended to be used and collected within a commercial setting;
(iv)(A) The producer annually demonstrates to the department that the material has had a state recycling rate of 65 percent for three consecutive years, until December 31, 2029. Beginning January 1, 2030, the producer must demonstrate to the department every two years that the material has had a state recycling rate of at least 70 percent annually; or
(B) The producer annually demonstrates to the department that the material is directly managed by the producer and has had a reuse or recycling rate of 65 percent for three consecutive years, until December 31, 2029. Beginning January 1, 2030, the producer must demonstrate to the department every two years that the material controlled by the producer has had a reuse or recycling rate of at least 70 percent annually; and
(v) If only a portion of the material sold in or into the state by a producer meets the criteria of (p)(i) of this subsection, only the portion of the material that meets that criteria is an exempt material and any portion that does not meet the criteria is a covered material for purposes of this chapter.

(20) "**Government entity**" means any:

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(a) County, city, town, or other local government, including any municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency;
(b) State office, department, division, bureau, board, commission, or other state agency;
(c) Federally recognized Indian tribe whose traditional lands and territories include parts of Washington; or
(d) Federal office, department, division, bureau, board, commission, or other federal agency.

(21) "**Individual plan**" means a plan submitted by a producer that registers with the department as a producer responsibility organization to address the covered materials of the producer.

(22) "**Introduce**" means to sell, offer for sale, distribute, or ship a product within or into this state.

(25) (a) "**Packaging**" means a 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.
(b) "Packaging" does not include exempt materials.

(26) "**Paper product**" means paper sold or supplied to a consumer for personal, noncommercial use, including flyers, brochures, booklets, catalogs, magazines, printed paper, and all other paper materials except for: (a) Bound books; (b) conservation-grade and archival-grade paper; (c) newspapers, including supplements or enclosures; (d) magazines that have a circulation of fewer than 95,000 and that includes content derived from primary sources related to news and current events; (e) copy paper; (f) paper for use in building construction; and (g) paper that could reasonably be anticipated to become unsafe or unsanitary to handle.

(29)(a) "**Producer**" means the following person responsible for compliance with requirements under this chapter for a covered material introduced into the state:
(i) For items sold in or with packaging at a physical retail location in this state:
(A) If the item is sold in or with packaging under the brand of the item manufacturer or is sold in packaging that lacks identification of a brand, the producer is the person that manufactures the item;
(B) If there is no person to which (a)(i)(A) of this subsection applies, the producer is the person that is licensed to manufacture and sell or offer for sale to consumers in this state an item with packaging under the brand or trademark of another manufacturer or person;
(C) If there is no person to which (a)(i)(A) or (B) of this subsection applies, the producer is the brand owner of the item;
(D) If there is no person described in (a)(i)(A), (B), or (C) of this subsection within the United States, the producer is the person who is the importer of record for the item into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the item in this state; or
(E) If there is no person described in (a)(i)(A) through (D) of this subsection, the producer is the person that first distributes the item in or into this state;
(ii) For items sold or distributed in packaging in or into this state via e-commerce, remote sale, or distribution:
(A) For packaging used to directly protect or contain the item, the producer of the packaging is the same as the producer identified under (a)(i) of this subsection; and
(B) For packaging used to ship the item to a consumer, the producer of the packaging is the person that packages the item to be shipped to the consumer;

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(iii) For packaging that is a covered material and is not included in (a)(i) and (ii) of this subsection, the producer of the packaging is the person that first distributes the item in or into this state;
(iv) For paper products that are magazines, catalogs, telephone directories, or similar publications, the producer is the publisher;
(v) For paper products not described in (a)(iv) of this subsection:
(A) If the paper product is sold under the manufacturer's own brand, the producer is the person that manufactures the paper product;
(B) If there is no person to which (a)(v)(A) of this subsection applies, the producer is the person that is the owner or licensee of a brand or trademark under which the paper product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;
(C) If there is no person to which (a)(v)(A) or (B) of this subsection applies, the producer is the brand owner of the paper product;
(D) If there is no person described in (a)(v)(A), (B), or (C) of this subsection within the United States, the producer is the person that imports the paper product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the paper product in this state; or
(E) If there is no person described in (a)(v)(A) through (D) of this subsection, the producer is the person that first distributes the paper product in or into this state;
(vi) A person is the "producer" of a covered material sold, offered for sale, or distributed in or into this state, as defined in (a)(i) through (v) of this subsection, except:
(A) Where another person has mutually signed an agreement with a producer as defined in (a)(i) through (v) of this subsection that contractually assigns responsibility to the person as the producer, and the person has joined a registered producer responsibility organization as the responsible producer for that covered material under this chapter. If another person is assigned responsibility as the producer under this subsection, the producer under (a)(i) through (v) of this subsection must provide written certification of that contractual agreement to the producer responsibility organization. The following persons are not eligible to be the assigned recipient of responsibility as a producer under this subsection: (I) A person who produces an agricultural commodity introduced under the brand or trademark of another manufacturer or person; or (II) a distributor of a beverage sold in a beverage container; and
(B) If the producer described in (a)(i) through (v) of this subsection is a business operated wholly or in part as a franchise, the producer is the franchisor, if that franchisor has franchisees that have a commercial presence within the state.
(b) "Producer" does not include:
(i) Government entities;
(ii) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare organizations; or
(iii) De minimis producers.

(30) "**Producer responsibility organization**" means:
(a) A nonprofit organization that qualifies for a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code and is designated by a producer or group of producers to fulfill the requirements of this chapter;
(b) A producer that registers with the department as a producer responsibility organization and implements an individual plan addressing the covered materials of the producer; or
(c) An organization as defined by the department by rule.

(31) "**Program**" means the activities conducted to implement an approved plan.

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(40) "**Reusable**" means capable of reuse.

(41) "**Reuse**" means the return of a covered material to the marketplace and the continued use of the covered material by a producer or service provider when the covered material is:
(a) Intentionally designed and marketed to be used multiple times for its original intended purpose without a change in form;
(b) Designed for durability and maintenance to extend its useful life and reduce demand for new production of the covered material;
(c) Supported by adequate logistics and infrastructure at a retail location, by a service provider, or on behalf of or by a producer, that provides convenient access for consumers; and
(d) Compliant with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing health and safety.

(42) "**Reuse rate**" means the share of units of a reusable covered material introduced into the state in a calendar year that are demonstrated and deemed reusable in accordance with an approved plan.

(43) "**Service provider**" means an entity that provides covered services for covered materials. A government entity that provides, contracts for, or otherwise arranges for another party to provide covered services for covered materials within its jurisdiction may be a service provider regardless of whether it provided, contracted for, or otherwise arranged for similar services before the approval of the applicable plan.

173-950-100 PRODUCERS

This section focuses on the responsibilities of producers.

173-950-110 Producer Duties

(1) A producer must:

(a) Follow all applicable requirements in RCW 70A.208.030 and RCW 70A.208.040;

(b) Maintain all documents and records necessary to ensure compliance for a minimum of seven years; and

(c) Upon request, provide all documents and records necessary to ensure compliance to the department within 15 business days or the specified timeline provided by the department, whichever is later.

(2) To be a member in good standing with a registered producer responsibility organization, a producer must be in compliance with all reasonable and necessary terms of its agreement with the producer responsibility organization;

(3) A producer intending to cease participation in a producer responsibility organization shall provide written notice to their producer responsibility organization and the department no later than 30 days before ceasing participation. The notice must include:

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(a) The producer's name and any associated brands; and

(b) The date the producer will cease participation.

173-950-120 Individual Producer Plan

This section applies to individual producers intending to operate under a department-approved Individual Plan.

(1) A producer intending to operate under a department-approved individual plan must:

(a) By January 1 two years prior to implementing a plan, notify the department and its producer responsibility organization in writing of its intent to leave the producer responsibility organization;

(b) By March 1 of that year, register with the department as a producer responsibility organization. A registration submission must include:

(i) Contact information for a person responsible for implementing an approved plan;

(ii) A list of brands of the producer's covered materials;

(iii) The volume of covered materials introduced into the state during the previous calendar year; and

(iv) Documentation demonstrating adequate financial responsibility and financial controls to ensure proper management of funds and payment of the annual registration fee to the department;

(c) By October of that year, submit an individual plan and a one-time plan review base fee to the department.

(i) The department will annually determine the plan review base fee. If the actual cost of review exceeds the plan review base fee, the department will charge an additional per-hour fee to cover the additional cost;

(ii) This fee covers:

(A) Cost of staff hours, including salaries and benefits required by law to be paid to, or on behalf of, employees; and

(B) Other costs incurred as a direct result of department staff working on the plan including travel related to plan review, printing and publishing plan documents, and other work, contracted or otherwise;

(d) Until plan approval, remain a member of its producer responsibility organization.

(2) **Program Plan**: The individual plan must follow the plan submittal and approval process in RCW 70A.208.060(5) and must include:

(a) A list of covered material types the producer is introducing in or into the state;

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(b) Performance targets established under RCW 70A.208.150 as applicable to each covered materials type to be accomplished within a five-year period;

(c) A description of the methods of collection, how collection service convenience metrics in RCW 70A.208.100 will be met, and a description of processing infrastructure and covered services to be used for each covered materials type for persons and locations receiving services, at a minimum, and how these will meet the performance targets established in RCW 70A.208.150 for covered materials that are:

(i) Included or proposed to be included on lists established in RCW 70A.208.090;

(ii) Reusable covered materials managed through a reuse system; and

(iii) Capable of refill and managed through a refill system;

(d) A description of how, for each covered materials type, the producer responsibility organization will measure recycling, plastic source reduction, reuse, composting, and the inclusion of postconsumer recycled content, in accordance with the methodology established in RCW 70A.208.150;

(e) Third-party certifications as required by the department or voluntarily undertaken;

(f) A description of activities to be undertaken by the producer responsibility organization during each year to:

(i) Minimize the environmental impacts and human health impacts of covered materials, including assessing each covered material type's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;

(ii) Foster the improved design of covered materials, as identified under RCW 70A.208.160(2)(c);

(iii) Provide funding to expand and increase the convenience of waste reduction, refill, reuse, collection, recycling, and composting services to covered entities, at a minimum, according to the order of the state's solid waste management hierarchy established in RCW 70A.205.005;

(iv) Provide for reimbursement rates to service providers for statewide coverage of covered services on the lists established in RCW 70A.208.090; and

(v) Monitor to ensure that postconsumer materials are delivered to responsible markets;

(g) A description of how the program will reimburse service providers under an approved plan including, but not limited to, a description of how the program will establish:

(i) A methodology to calculate differentiated reimbursement rates as provided in RCW 70A.208.160 and 70A.208.170;

(ii) A process for service providers to submit invoices and be reimbursed for covered services provided to covered entities;

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(iii) Clear and reasonable timelines for reimbursement, at intervals no longer than monthly unless agreed to by a service provider and a producer responsibility organization; and

(iv) A process that utilizes a third-party mediator to resolve disputes that arise between the producer responsibility organization and a service provider regarding the determination of reimbursement rates and payment of reimbursements;

(h) A summary of consultations held with the advisory council and other interested parties to provide input to the plan, a list of recommendations that were incorporated into the plan as a result, and a list of rejected recommendations and the reasons for rejection;

(i) Strategies to incorporate findings from any relevant studies required by the legislature; and

(j) Any other relevant information required by the department.

(3) **Plan approval:** Consistent with the process established in RCW 70A.208.060(5), the department may only approve a draft plan submitted by a producer responsibility organization that meets the requirements of this section. The department shall not approve a draft plan that does not satisfy each criteria required of a plan under this section including, but not limited to, a plan that does not reduce or eliminate disparities in the availability to socially vulnerable populations of covered services for covered materials.

(4) **Implementation**: A producer responsibility organization must implement the approved plan within six months of approval.

(5) **Annual Reporting**: A producer responsibility organization must follow the applicable annual reporting requirements in RCW 70A.208.200.

END OF MEETING #1 LANGUAGE REVISIONS

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MEETING #2 RULE LANGUAGE: PRO

This section focuses on the duties of the Producer Responsibility Organization(s)

173-950-200 PRODUCER RESPONSIBILITY ORGANIZATION

173-950-210 Producer Responsibility Organization Duties

A producer responsibility organization must:

(1) Complete the registration requirements in RCW 70A.208.030. A registration submission by a producer responsibility organization must include the total volume of covered materials introduced into Washington by member producers during the previous calendar year.

(2) Complete the responsibilities of RCW 70A.208.040 and the following:

(a) Retain all documents and records necessary to confirm compliance for a minimum period of seven years;

(b) Provide documents or records within 15 business days of the department's request or on the timeline provided by the department, whichever is later.

(3) Submit a plan to the department as required in RCW 70A.208.130. Each plan must:

(a) Describe the producer responsibility organization, general policies, procedures, and practices;

(b) Establish procedures to ensure service providers meet the requirements in RCW 70A.208.080;

(c) After January 1, 2032, describe how the equity study recommended actions are included in the plan; and

(d) Include a contingency plan as required by RCW 70A.208.140.

(4) Submit an annual report to the department as required under RCW 70A.208.200. The annual report must include:

(a) Descriptions of efforts related to program effectiveness, including challenges and modifications; system operations including expansions, improvements, and capacity; contamination management; public and tribal engagement; equity; and responsible markets;

(b) Descriptions of the continuous improvements accomplished by the program as required under RCW 70A.208.150(3).

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173-950-220 Coordinating Body

(1) If more than one producer responsibility organization registers with the department, the producer responsibility organizations must establish a coordinating body as required under RCW 70A.208.040(4) and register with the department by May 1 of the year the body is established. A registration submission must include the following:

(a) The name of the coordinating body;

(b) The contact information for a person representing the coordinating body; and

(b) A list of all producer responsibility organizations represented by the coordinating body.

(2) Each coordinated plan submitted by the coordinating body must include:

(a) Plans of all producer responsibility organizations into a single plan that implements all requirements of this chapter and encompasses all producers when submitted to the department for approval;

(b) How the producer responsibility organizations will coordinate to ensure that their obligations under chapter 70A.208 RCW and chapter 173-950 WAC are met.

(c) A process for resolving disputes between producer responsibility organizations and between producer responsibility organizations and local governments and their service providers;

(d) A process by which a producer responsibility organization or multiple producer responsibility organizations will assume responsibilities to implement a coordinated plan should the coordinating body be unable to implement the coordinated plan;

(e) A process to address coordination in the event a producer responsibility organization ceases implementation of a producer responsibility program; and

(f) A process for designating a new coordinating body and notifying the department in advance.

(3) The coordinated plan approved by the department shall be implemented by all producer responsibility organizations;

(a) If the plan conflicts with an approved program plan, the details of the coordinated plan prevail; and

(b) The coordinating body shall submit for approval a new coordinated plan on a schedule that coincides with the schedule for producer responsibility organizations to submit new producer responsibility organization program plans.

(3) Review and approval of the coordinated plan and annual report must follow the processes established in RCW 70A.208.060 (5) and (6).

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173-950-230 Reuse Financial Assistance Program

(1) Collectively producer responsibility organizations must annually fund and implement a reuse financial assistance program as required under RCW 70A.208.040(5).

(2) Producer responsibility organizations must consult with the department in the development and implementation of the reuse financial assistance program, including on:

(a) Establishing applicant selection criteria, evaluating and selecting applicants, and administering the program; and

(b) Providing for department review of the results and outcomes of the funded reuse projects.

END of MEETING #2 RULE LANGUAGE

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