

# Please connect your audio and join.

## Join

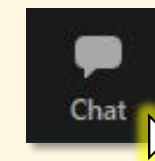
Connect Audio & Join



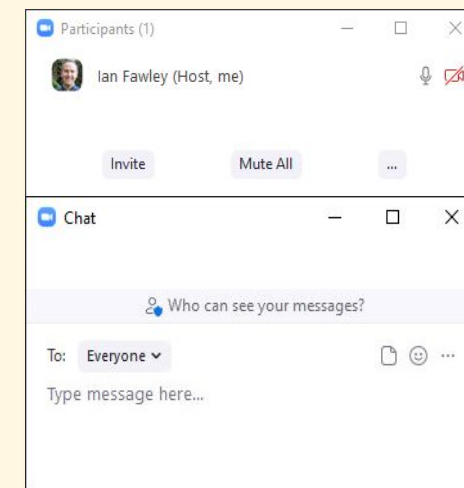
**Tip** Try your computer audio *first*.

If you'd like, you can test your speaker and microphone *before* joining.

## Participate



Question?  
Need help?  
Chat with us!



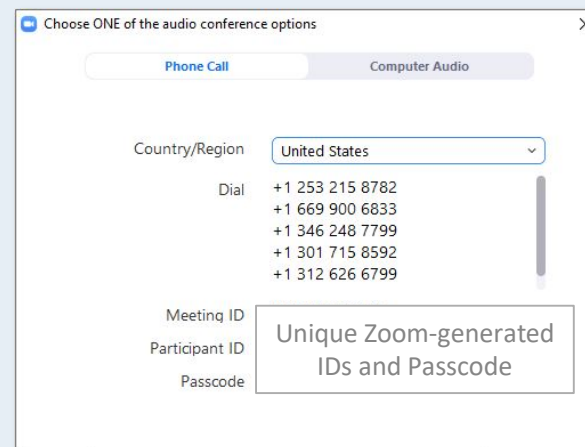
Turn on the Chat box and Participant list from your toolbar.

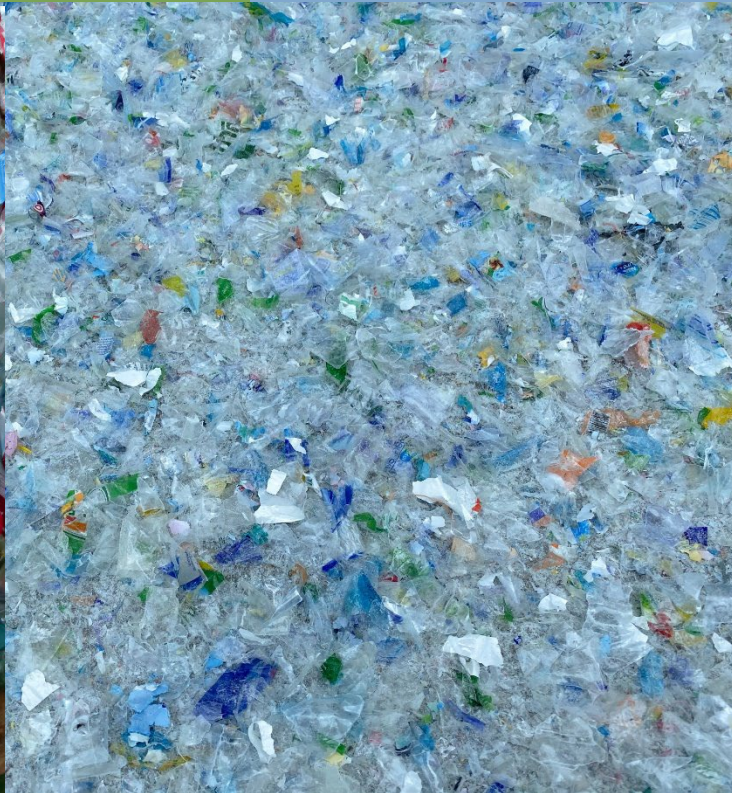
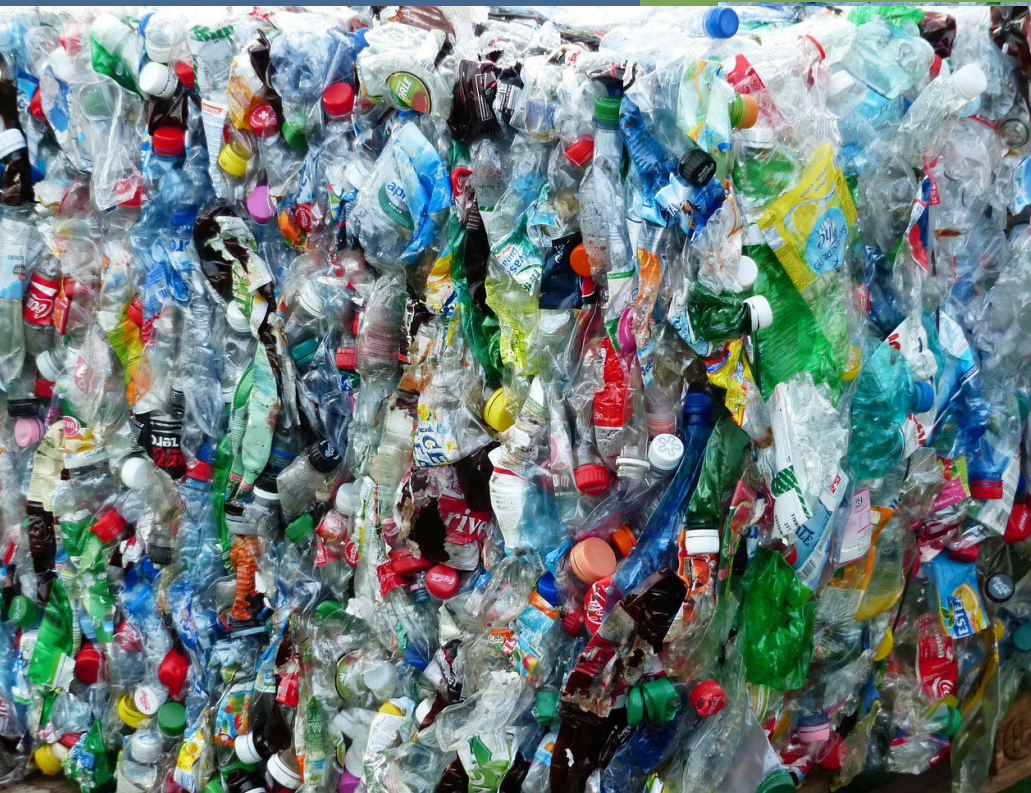
## Audio

**A** Best Option: Use computer for audio

**B** If selecting "Phone Call"...

- Dial: **253-215-8782 (Tacoma)**
- Enter Zoom Meeting ID **836 9470 8430**, followed by "#"
- Enter your unique Zoom Participant ID, followed by "#"
- (If you do not enter the Participant ID, you will be prompted to enter the Passcode.)





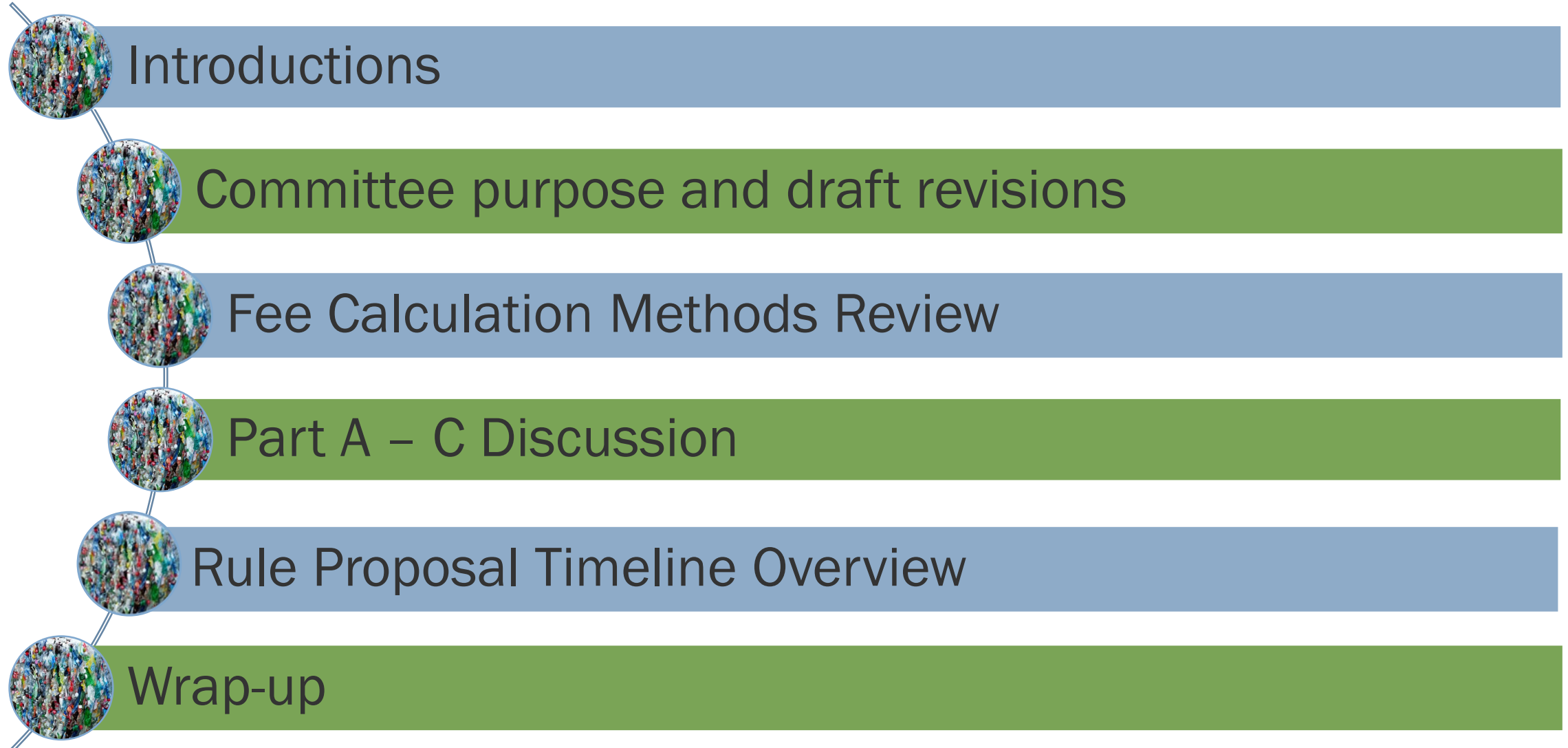
# Draft Rule Part C, PCR Content Percentages

WAC 173-925, PCR Content Rule

July 28, 2022



# Overview



# Ecology PCR Implementation Team



**Alli Kingfisher**  
**Plastics Policy Specialist**



**Shannon Jones**  
**Plastics Reduction and Rule Coordinator**



**Heather Curtis**  
**Plastics Recycled Content Specialist**



**Christina Kullberg**  
**Plastics Recycled Content Specialist**

# Washington PCR Rule Advisory Committee

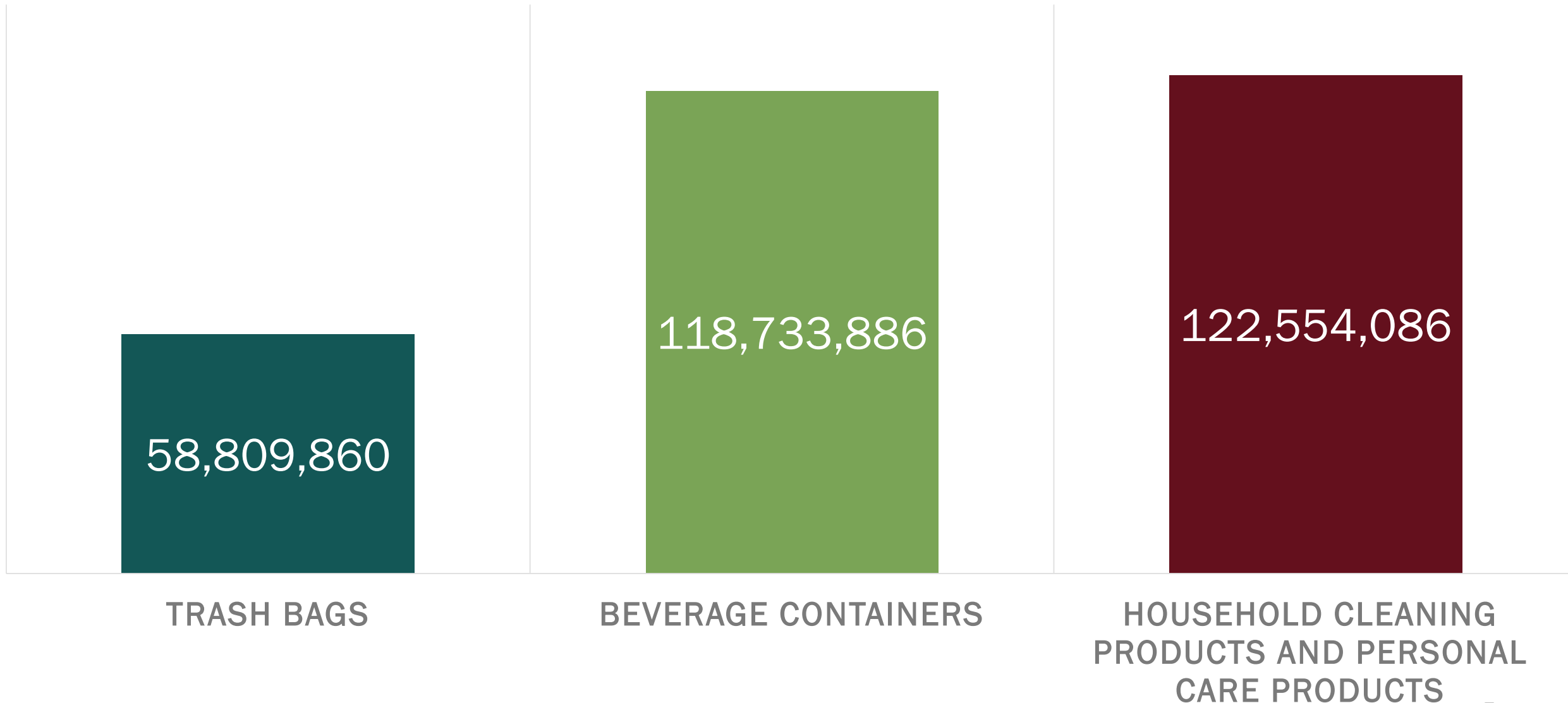
Name	Organization
Emily Alexander	Darigold
Chris Cary	Tree Top, Inc
Holly Chisa	Northwest Grocery Association
John Cook	Niagara Bottling
Megan Daum	American Beverage Association
Kate Eagles	Association of Plastic Recyclers
Kyla Fisher	Ameripen
Christopher Finarelli	Household & Commercial Products Association
Brennan Georgianni	American Cleaning Institute
Sally Jefferson	The Wine Institute
Charles Knutson	Amazon
Carolyn Logue	Washington Food Industry Association
Lauren Shapiro	Personal Care Products Council
Mark Smith	Clorox
Heather Trim	Zero Waste Washington



# 2022 Registration

Registered For SAW	303
Submitted	253
Not Submitted	14
Total Registrations	267
Not De minimis	105
De minimis	148

# Covered products total resin (in pounds)



# Purpose and Overview

- There are 4 parts of this rulemaking: A through D of WAC 173-925
- Ecology has shared draft language for parts A – C
- Input will be accepted until November 1, 2022
- SmartComment is open for input on revised draft A – C
- Input should include needs for clarity and suggested language revisions
- Ecology will consider all input as revisions continue



# Part A – General and Definitions

- New or altered definitions for:
  - Beverage
  - Producers
  - De minimis producers
  - Household Cleaning Products
  - Personal care products
  - Federal regulations
  - Third party representative

# Entity

- New draft definition proposed since most recent draft:

*(10) “Entity” means an individual and any form of business enterprise. For purposes of calculating the de minimis producer thresholds in subsection (6), a producer entity includes all legal entities that are affiliated by common ownership of fifty percent or greater, including parents, subsidiaries, and commonly owned affiliates.*

# Producers

- New draft definition proposed since most recent draft:

*(23)(a) "Producer" means the entity responsible for compliance with the requirements of this chapter for a covered product sold, offered for sale, or distributed in or into this state.*

*(b) The producer of a covered product is the entity that affixes its brand, or specifies that its brand be affixed, to the covered product container or retail packaging, unless one of the following is true:*

*(c) If an entity is a "brand licensor," meaning it has licensed its brand to be used on a covered product that is to be sold by the licensee, then the licensee is the producer.*

*(d) If the covered product lacks identification of a brand, the producer is the entity that specified the material specifications for the covered product*

*(e) If there is no person described in (b), (c), or (d) of this subsection that has undertaken distribution of the product in or into this state, then the producer is the entity who imports or distributes the covered product in or into the state, including through online sales.*

*\*(f) contains the original language from the RCW*

# De minimis producers

- New draft definition proposed since most recent draft:

*(6) (a) “De minimis producer” means an entity that annually sells, offers for sale, distributes, or imports in or into the country for sale in Washington:*

*(i) Less than one ton of a single category of plastic beverage containers, plastic household cleaning and personal care containers, or plastic trash bags each year; or*

*(ii) A single category of a covered product that in aggregate generates less than \$1,000,000 each year in revenue from sales into Washington.*

*(b) These thresholds are to be calculated at the level of the producer “entity” as defined in subsection (10). De minimis does not apply to entities who have agreed to accept responsibility on the behalf of a producer.*

*(c) De minimis producers are not required to meet annual registration, reporting, PCR, or fee requirements, but must annually notify the department in writing to demonstrate that they meet the de minimis threshold.*

*(d) The department may request additional information to verify the de minimis status of a producer, including:*

*(A) Annual revenue dollar amount less than or equal to one million dollars;*

*(B) Annual total resin weight less than or equal to one ton; and*

*(C) Any additional information requested by the Department*

# Part B – Registration and Reporting

- Registration and Reporting
  - Who must register and report
  - Information required
  - Documentation required
  - Registration and Reporting deadlines
- Requests for confidentiality of reported data
- Fee calculation and distribution
- De minimis notification

# Requests for Confidentiality

- [70A.245.090\(2\)](#) and [70A.245.030](#)
- Ecology must annually publish a list of the following:
  - Registered producers of covered products
  - Associated brand names of registered producers
  - Compliance status
  - Specific items the producer requests to keep confidential
- Producers may annually submit confidentiality requests
- Requests must be granted by Director of the agency
  - Outlined in [RCW 43.21A.160](#)
- Factors for Ecology's determination:
  - Is granting confidentiality detrimental to public interest?
  - Does the request relate to unique processes of production?
  - Would producer's competitive position be compromised?

## Part C – PCR Content Requirements

- All original registration info
- Average PCR content weight by resin type by product category
- Total PCR resin as percentage of total weight
- If providing national or regional data:
  - Method for calculating/separating WA specific data
  - Explanation for why state-level data cannot be obtained

# Part D - Enforcement

- Audits of information
- Process for non-compliance
- Penalties
  - Calculation of penalty amount
  - Penalty deadlines
  - Adjustments to penalties
  - Corrective action plans



# Equitable Distribution of Annual Fees



**Lori Peterson**  
**Ecology SWM Budget Analyst**

# Fee Calculation and Draft Rule Language

**WAC 173-925 Part B – Section 050 Producer annual fee calculation and payment.**

What we'll cover today

- Changes in this version of the rule language
- Administrative Requirements
- Illustration of the Fee Calculation
- Pending Edits to the rule language based on early feedback

# Changes to Rule Language

- Streamlines language regarding workload analysis
- Adds option for other criteria to be used for equitable fee distribution
- Simplifies equations to focus on fee calculations
- Provides basis for adjustments to billings based on previous costs and revenue
- Clarifies the basis for fee calculations: total plastic resins (PCR *and* virgin)

# Administrative Requirements

- Due within 60 days of invoice mailing
- Late notice, 30 days to resolve
- Failure to pay fees may result in enforcement actions, including penalty

# Fee Distribution

(CY 2022 calculation–based on current registration data)



## Equation 1(a), Program Administration Fee

Program Admin Fee = Ecology Program Admin Cost x [(Individual Producer Resin)/(Washington Resin Total)]

Program Admin Fee = \$603,144 x [(Individual Producer Resin)/(300,097,832.51 lbs)]

# Fee Distribution (CY 2022, current status)

Tier	Lower Limit	Upper Limit	# Producers
0	\$ -	\$ 15.00	<b>4</b>
1	\$ 16.00	\$ 50.00	<b>15</b>
2	\$ 51.00	\$ 100.00	<b>6</b>
3	\$ 101.00	\$ 200.00	<b>13</b>
4	\$ 201.00	\$ 500.00	<b>16</b>
5	\$ 501.00	\$ 1,000.00	<b>10</b>
6	\$ 1,001.00	\$ 2,000.00	<b>12</b>
7	\$ 2,001.00	\$ 5,000.00	<b>10</b>
8	\$ 5,001.00	\$ 10,000.00	<b>4</b>
9	\$ 10,001.00	\$ 15,000.00	<b>7</b>
10	\$ 15,001.00	\$ 25,000.00	<b>4</b>
11	\$ 25,001.00	\$ 50,000.00	<b>1</b>
12	\$ 50,001.00	\$100,000.00	<b>2</b>
13	\$100,001.00	\$200,000.00	<b>1</b>
<b>Total Producers</b>			<b>105</b>

# Estimated Costs – Types of Work

(CY 2023 hypothetical example)



Workload for PCR Oversight				
Job Class	Work Performed	Full-Time Equivalents (FTE)	Hypothetical Agency Standard Cost per FTE	Estimated Cost
Environmental Specialist 3	Technical assistance, review and posting of annual report data, compliance monitoring, PCR content requirements enforcement	1.50	\$100,000	\$150,000
IT Application Developer – Journey	Annual reporting system development and maintenance	0.10	\$100,000	\$10,000
Assistant Attorney General	Legal guidance for PCR content requirements	0.15	\$100,000	\$15,000
<b>Total Estimated FTE and Costs for PCR Content Requirements</b>		<b>1.75</b>		<b>\$175,000</b>

Workload for General Program Administration				
Job Class	Work Performed	Full-Time Equivalents (FTE)	Hypothetical Agency Standard Cost per FTE	Estimated Cost
Environmental Specialist 3	Registration Technical assistance, enforcement of registration and fee requirements	0.50	\$100,000	\$50,000
IT Application Developer – Journey	Registration system maintenance	0.05	\$100,000	\$5,000
Environmental Planner 4	Rule updates	0.10	\$100,000	\$10,000
Assistant Attorney General	Legal guidance related to registration, fee, etc. (fee eligible costs in RCW 70A.245 not related to PCR Content requirements)	0.03	\$100,000	\$3,000
Budget Analyst 4	Workload Model Development	0.02	\$100,000	\$2,000
<b>Total Estimated FTE and Costs for General Administration</b>		<b>0.70</b>		<b>\$70,000</b>

# Fee Distribution (CY 2023 hypothetical example)

	Trash Bags	Bev Ctrs	HH & PC	Producer Totals, All Categories	Producer Totals, Reporting Categories	Equation 1(a) Program Administration Fee		Equation 1(b) PCR Content Oversight Fee		Equation 1(c) Total Producer Fee
Producer Number	Pounds of Resin			Pounds of Resin		% of Grand Total, All Categories	Program Admin Fee	% of Grand Total, Reporting Categories	PCR Oversight Fee	Program Admin Fee + PCR Oversight Fee
Producer 1	2,500		5,000	7,500	2,500	0.69%	\$484.32	0.36%	\$625.00	<b>\$1,109.32</b>
Producer 2	2,500			2,500	2,500	0.23%	\$161.44	0.36%	\$625.00	<b>\$786.44</b>
Producer 3		12,000	125,000	137,000	12,000	12.64%	\$8,846.86	1.71%	\$3,000.00	<b>\$11,846.86</b>
Producer 4			30,000	30,000		2.77%	\$1,937.27	0.00%	\$0.00	<b>\$1,937.27</b>
Producer 5		100,000	12,000	112,000	100,000	10.33%	\$7,232.47	14.29%	\$25,000.00	<b>\$32,232.47</b>
<b>Totals</b>	<b>63,000</b>	<b>637,000</b>	<b>384,000</b>	<b>1,084,000</b>	<b>700,000</b>	<b>100%</b>	<b>\$70,000.00</b>	<b>100%</b>	<b>\$175,000.00</b>	<b>\$245,000.00</b>

Individual Producer Resins  
 ÷ WA Resin Total (all Categories)

Individual Producer Resins  
 ÷ WA Resin Total (PCR Categories)

## Equation 1(a), Program Admin Fee

Ecology Program Admin Cost x [(Individual Producer Resin)/(Washington Resin Total)]

## Equation 1(b), PCR Oversight Fee

Ecology PCR Content Oversight Cost x [(Individual Producer Resin)/(Washington Resin Total)]



# Fee Distribution (CY 2023 hypothetical example)

## Equation 1(a), Program Administration Fee

$$\text{Program Admin Fee} = \$70,000 \times [(7,500 \text{ lbs}) / (1,084,000 \text{ lbs})]$$

	Trash Bags	Bev Ctrs	HH & PC	Producer Totals, All Categories	Producer Totals, Reporting Categories	Equation 1(a) Program Administration Fee	
Producer Number	Pounds of Resin			Pounds of Resin		% of Grand Total, All Categories	Program Admin Fee
Producer 1	2,500		5,000	7,500	2,500	0.69%	\$484.32
<b>Totals</b>	<b>63,000</b>	<b>637,000</b>	<b>384,000</b>	<b>1,084,000</b>	<b>700,000</b>	<b>100%</b>	<b>\$70,000.00</b>

Individual Producer  
Resin

Washington Resin  
Total

# Fee Distribution (CY 2023 hypothetical example)

## Equation 1(b), PCR Content Oversight Fee

$$\text{Program Admin Fee} = \$170,000 \times [(2,500 \text{ lbs}) / (700,000 \text{ lbs})]$$

	Trash Bags	Bev Ctrs	HH & PC	Producer Totals, All Categories	Producer Totals, Reporting Categories	Equation 1(b) PCR Content Oversight Fee	
Producer Number	Pounds of Resin			Pounds of Resin		% of Grand Total, Reporting Categories	PCR Oversight Fee
Producer 1	2,500		5,000	7,500	2,500	0.36%	\$625.00
<b>Totals</b>	<b>63,000</b>	<b>637,000</b>	<b>384,000</b>	<b>1,084,000</b>	<b>700,000</b>	<b>100%</b>	<b>\$175,000.00</b>

Washington Resin Total

Individual Producer Resin

# Pending Change to Rule Language

## Equation 1(b), PCR Content Oversight Fee

$$\text{PCR Oversight Fee} = \text{Ecology PCR Content Oversight Cost} \times \frac{[(\text{Individual Producer Resins, Reporting Categories}) / (\text{Washington Resin Total, Reporting Categories})]}$$

Individual Producer Resins, Reporting Categories = One registered and reporting producer's total pounds of all plastic resins (PCR and virgin) used in all categories of covered products that are required to meet PCR content minimum requirements sold or offered for sale in Washington State for the prior calendar year.

Washington Resin Total, Reporting Categories = total pounds of all plastic resins (PCR and virgin) used in all categories of covered products that are required to meet PCR content minimum requirements sold or offered for sale in Washington State for the prior calendar year.

# Discussion Questions

- Is any of the language unclear?
- Are there remaining questions that are not addressed in the language?
- Do you have suggested language that will make these requirements more clear?
- Are there technical or feasibility issues with the language as drafted?

Benchmarks	Dates
Final comments due for draft language	11/1/2022
Draft rule economic analysis	1/1/2023 – 3/1/2023
Public comment and hearings on rule proposal	3/2023 – 4/2023
Finalize rule for adoption	3 <sup>rd</sup> & 4 <sup>th</sup> quarter, 2023
Rule effective	1/2024
Ecology annual review of PCR percentages	1/1/2024 (annually)
Phase 1 reports begin: Trash bags, beverage containers	4/1/2024 (annually)
Phase 2 reports begin: Household cleaning and personal care products	4/1/2026 (annually)
Phase 3 reports begin: Wine in 187ml containers and dairy	4/1/2029 (annually)

## Coming Up

- Ongoing input from advisory committee
- SmartComments for Revised Draft A - C
- Revised draft A - D shared in September
- Final Committee Meeting 9/29, 9:00 – 12:00 PST

## Homework

- SmartComments
- Share info with stakeholders and partners
- Input on enforcement language

# Next Steps



# Thank you!

Next advisory meeting: [September 29th, 9:00 – 12:00 \(PST\)](#)

Rulemaking Questions: [shannon.jones@ecy.wa.gov](mailto:shannon.jones@ecy.wa.gov)

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