



DEPARTMENT OF
ECOLOGY
State of Washington

Rule Implementation Plan
Chapter 173-925 WAC
Post-consumer recycled content
in plastic containers

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¹ www.ecology.wa.gov/contact

² www.ecology.wa.gov/accessibility

Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region 360-407-6300	Northwest Region 206-594-0000	Central Region 509-575-2490	Eastern Region 509-329-3400
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Region	Counties served	Mailing address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

Rule Implementation Plan

Chapter 173-925 WAC
**Post-consumer recycled content
in plastic containers**

**Solid Waste Management Program
Washington State Department of Ecology
Olympia, Washington**

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Purpose

The Washington State Department of Ecology (Ecology) provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

Introduction

On October 31, 2023, Ecology adopted Chapter 173-925 WAC, Post-consumer recycled content in plastic containers, AO # 21-09. The Washington State Department of Ecology (Ecology, we, us) developed this Rule Implementation Plan to:

- Comply with agency requirements and with the section of the [Administrative Procedure Act](#) (APA) that requires agencies to prepare a Rule Implementation Plan ([RCW 34.05.328](#)).
- Inform people how Ecology intends to:
 - Implement and enforce the rule.
 - Inform and educate parties affected by the rule.
 - Promote and assist voluntary compliance for the rule.
 - Train, inform, and support Ecology staff.

This rule implementation plan provides information on the rule adoption for: Title:

Post-Consumer Recycled Content in Plastic Containers

WAC chapter: 173-925
AO#: 21-09
Adopted: October 31, 2023
Effective: December 1, 2023
RCW chapter: 70A.245

This rule implementation plan also includes:

- Supporting documents that we may need to write or revise because of the new rule or amended rule.
- Other resources where you can find more information about the rule.
- Contact information for Ecology employees who can answer questions about the new rule and this plan.

Overview of this rulemaking

On November 3, 2021, we [announced the start of rulemaking](#) to develop a new chapter in the Washington Administrative Code (WAC). In [February](#) and [March](#) of 2022, we hosted four webinars to share information about the rulemaking process and invited the public to join the rule language advisory committee. Between April and September 2022, we hosted eight rule advisory committee meetings to discuss draft language and gather input from individuals representing some of the primary entities affected by the rule. These meetings were open to the public. We used feedback from advisory committee meetings and ongoing public comment to develop a preliminary draft rule. Between April and October 2022, we posted each revised draft on our website and invited ongoing public comment on the evolving document until November 1, 2022.

On May 2, 2023, we published the [proposed rule](#), the [Preliminary Regulatory Analysis](#), the [Proposed Rulemaking Notice](#), and the [SEPA Determination of Nonsignificance](#). We accepted formal comments on the proposed rule from May 2, 2023, through July 1, 2023. During the 60-day public comment period, we received a total of 22 comment submissions on the proposed rule including verbal testimony provided during one of the two [June 2023 hearings](#). We used that feedback to develop the [Adopted Rule Language](#), which will be published with the [Concise Explanatory Statement](#), and the [Final Regulatory Analyses](#).

Ecology adopted Chapter 173-925 WAC on October 31, 2023. This rule takes effect on December 1, 2023.

Washington post-consumer recycled content program

In 2021, the Washington State Legislature passed the [Recycling, Waste, and Litter Reduction Act \(Chapter 70A.245 Revised Code of Washington \(RCW\)\)](#) to reduce the impact of single-use plastics and increase the use of recycled content in some consumer packaging. It marks a major milestone in how we reduce plastic waste and boost end markets for plastic materials in the curbside recycling bin. This is one of the strongest laws on post-consumer recycled content packaging in the nation.

[Chapter 70A.245 RCW](#) gives us responsibility to oversee the new law by requiring producers of some categories of products sold in plastic packaging to annually register and report their use of post-consumer recycled content. It also requires producers to pay a fair share of annual fees proportionate to the weight of plastic they sell into the state. Ecology is required to use the annual fees to cover the cost for the agency to oversee the program, which are estimated each year in an annual workload analysis. This is posted in January and made available for public comment before publication. The law gives us authority through rulemaking to:

- determine methods to equitably calculate and divide fees among producers.
- provide clarity for definitions, scope, timelines, etc.
- outline Ecology's strategy to implement and enforce the law.

Implementation and Enforcement

Chapter 173-925 WAC—Post-consumer recycled content in plastic containers became effective December 1, 2023, and implements the requirements in chapter 70A.245 RCW – Recycling, Waste, and Litter Reduction to establish a post-consumer recycled content (PCRC) program for covered products, including, with some exceptions, trash bags and beverages, household cleaning products, and personal care products sold in plastic containers. Producers of covered products must meet the PCRC requirements (unless they meet the revenue or resin weight threshold of a de minimis producer, or a requested exclusion or adjusted minimum requirement is approved), as well as annually register, pay agency fees, and report to Ecology.

The law requires Ecology to:

- Prepare and invite public comments on an annual workload analysis identifying the agency's costs to implement, administer, and enforce the law.
- Adopt rules that establish a PCRC program for producers of covered products, which requires producers to annually register, pay agency fees, and report.

The adopted rule:

- Defines terms and clarifies the intent of the law.
- Establishes the formula to determine equitable producer fees required to fund Ecology's administration and oversight of the PCRC program for covered products.
- Specifies the information producers are required to provide at registration and in annual reports.
- Establishes the process Ecology will follow for:
 - Conducting audits and investigations of producers' annual reports.
 - Measuring the amount and methods for assessing PCRC.
 - Reviewing and adjusting PCRC rates.
 - Excluding certain plastic containers or elements of containers from PCRC requirements.
 - Determining technical feasibility of meeting PCRC rates.
 - Establishing corrective action requirements for producers who are out of compliance.
 - Determining conditions that merit a penalty reduction.
 - Determining the process to conduct audits.

Requirements timeline

The first requirements in chapter 173-925 WAC took effect in 2022, with the first annual producer registration and fee payment. In 2023, plastic trash bag producers and plastic beverage container producers were required to meet the first phase of minimum recycled content percentages established in the law. Following the adoption of the rule, additional reporting and minimum PCRC requirements will take effect according to the timeline below.

Nov. 30, 2023	Chapter 173-925 WAC becomes effective.
Jan. 2024	Ecology posts annual workload analysis for public comment before final publication. This occurs annually each January.
April. 1, 2024	<p>Producers of all covered products must continue to annually register and pay fees according to the fee distribution methods established in the adopted rule.</p> <p>Producers of trash bags and beverages sold in plastic containers must begin submitting annual reports, beginning with the first phase of recycled content minimum percentages they were required to meet in 2023. Beginning in 2023, producers of trash bags must be required to include 10% PCRC in their products. Producers of beverages (except for dairy and wine sold in 187 mL plastic containers) were required to include 15% PCRC in their plastic containers.</p>
Jan. 1, 2025	<p>Producers of household cleaning and personal care products sold in plastic containers are required to include 15% PCRC, the first phase of minimum recycled content requirements for this category of products.</p> <p>The minimum recycled content requirements for plastic trash bags increase from 10% to 15%.</p>
Jan. 1, 2026	The minimum recycled content requirements for beverages sold in plastic containers increase from 15% to 25%.
April 1, 2026	Producers of household cleaning and personal care products sold in plastic containers must begin submitting annual reports, beginning with the first phase of recycled content minimum percentages they were required to meet in 2025.

- Jan. 1, 2027 The minimum recycled content requirements for plastic trash bags increase from 15% to 20%.
- Jan. 1, 2028 Producers of dairy beverages sold in plastic containers and wine sold in 187 mL plastic containers are required to include 15% PCRC, the first phase of minimum recycled content requirements for these categories of products.
- The minimum recycled content requirements for household cleaning products and personal care products sold in plastic containers increase from 15% to 25%.
- April 1, 2029 Producers of dairy beverages sold in plastic containers and wine sold in 187 mL plastic containers must begin submitting annual reports, beginning with the first phase of recycled content minimum percentages they were required to meet in 2028.
- Jan. 1, 2031 The minimum recycled content requirements for beverages, household cleaning products, and personal care products sold in plastic containers increases from 25% to 50%.
- The minimum recycled content requirements for dairy beverages sold in plastic containers and wine sold in 187 ml plastic containers increase from 15% to 25%.
- Jan. 1, 2036 The minimum recycled content requirements for dairy beverages sold in plastic containers and wine sold in 187 mL plastic containers increase from 25% to 50%

Enforcement

Ecology staff will enforce the rule using the following resources and strategies:

- Monitor for compliance with the reporting requirements. We will review the annual registrations for accuracy, completeness, and timeliness. We will also determine if an entity subject to the reporting requirement failed to submit an annual registration or report. We will accomplish this by performing store audits and online searches for covered products and comparing products to the list of registered producers. We will review lists of producers registered in other states with similar laws to identify additional non-registered producers through additional research and outreach. Additionally, we anticipate a need to investigate reports of non-compliance after our annually published [registered producer list](#) is reviewed by the public and regulated community.
- Oversee compliance with the PCRC requirements. We may periodically conduct audits to assess accuracy of producer recycled content claims.
- Assess circumstances reported by producers and work with the regulated entity to maintain or achieve compliance.
- Evaluate producer requests for exclusions and adjustments. We will consult with the Attorney General's office as necessary to advise our determinations.
- Evaluate producer requests for confidentiality and present to Ecology's Director or designee to determine whether confidentiality of information is granted.
- Develop a guidance document to provide regulated entities with more technical detail to support compliance with the rule.

Guidance topics may include:

- Criteria to determine a responsible producer.
- Explanations and examples of covered products.
- Information on how to submit exclusion and adjustment requests.
- Information on how to submit confidential business information requests.
- Step-by-step registration and reporting instructions.
- Enforcement protocols for potential non-compliance.

We will work with regulated entities to achieve compliance with the requirements in the rule. If efforts are unsuccessful and enforcement actions are necessary, we will follow standard agency enforcement protocols. Violations of chapter 173-925 WAC are subject to the enforcement and penalty sanctions identified in the adopted rule.

Informing and Educating Persons Affected by the Rule

Rule Development Strategies

We provided resources on multiple platforms throughout the first two years of registration and rulemaking for the post-consumer recycled content in plastic containers program. As we receive feedback from the producers and other interested parties, we will improve existing tools and develop new ones.

Existing resources:

- Webpages:
 - [Recycled content minimums](#)
 - [Plastic producer registration](#)
 - [2021 plastics law](#)
 - [WAC 173-925 - PCRC Rulemaking Website](#)
 - [Events Listing - Washington State Department of Ecology](#)
 - [Producer List - PCR Registration & Reporting Database](#)
 - Webinars (5 webinars from 2021 to 2023):
 - Ecology documented feedback and presented to webinar attendees in real-time presentations and recordings.
 - [Feb. 10, 2022](#)
 - [Feb. 24, 2022](#)
 - [March 9, 2022](#)
 - [March 23, 2022](#)
 - [Updated guidance part 1-3](#)
 - [Updated guidance parts 4 and 5](#)
 - Stakeholder updates via the [Recycled Content E-mail Subscriber List](#).
 - Public outreach materials, including:
 - Blog posts.
 - Social media content.
 - Articles in trade journals.
 - Ecology hosted eight advisory meetings to receive input from a selected committee representing some of the primary parties affected by the rule, and any other interested parties.
 - You can review presentation slides and summary notes from those meetings on the [PCRC Rulemaking Webpage](#).
-

Ongoing Education and Outreach Strategies

Ecology staff will support producers as they comply with the requirements in the new rule. Our primary focus is on education, guidance, and technical assistance. We will provide ongoing technical support and instruction for the registration and reporting platform. We will carry out process improvements to streamline annual requirements for producers. We will also work with producers on an individual basis regarding compliance and requests for exclusions from requirements, adjustments to requirements, and extensions of reporting and payment deadlines.

We will prioritize tasks to implement the new rule, such as informing interested parties with regulated entities and the public.

We will maintain the registration and reporting database for regulated entities to submit annual registrations, reports, and requests to Ecology for extensions, adjustments, and confidentiality. In addition to providing technical support, we will provide helpful information on our website and through our e-mail subscriber list explaining:

- when the annual workload analysis is posted online and how to provide comments.
- who needs to register and report.
- when reports and fee payments are due.
- how to pay annual fee invoices to Ecology.
- what information to include in the registration and reporting platform.
- how to submit a registration, report, extension, or adjustment.
- where to review the PCRC Guidance Document.
- frequently asked questions.

Throughout the adoption of the new rule, we encouraged stakeholders and other interested parties to share their ideas to improve rule language and assist with compliance. Examples of outreach methods and involvement opportunities used to inform and involve interested parties is detailed in the previous section of this plan. We intend to use similar tools and approaches to inform and involve audiences and interested parties.

Our goals for informing and involving audiences include:

- Creating tailored, unique messages spanning communication channels and formats to share updates with regulated entities, stakeholders, and the public.

We intend to inform and update producers on an annual basis by utilizing the following communication strategies:

- Providing information, tools, and resources to support regulated entities, supporting industries, the public, and Ecology staff providing technical assistance and answering questions about the new rule.
- Developing social media updates and blog posts.

- Providing useful information on our website so industry websites can use and link to accurate and current information.
- Developing and maintaining communication materials so audiences are aware of the new rule and the post-consumer recycled content requirements.

Immediately following rule adoption, we will inform the public and those potentially affected by the rule by:

- Posting the adopted rule, this rule implementation plan, the Concise Explanatory Statement, and the Final Regulatory Analyses on the [PCRC Rulemaking Webpage](#).
- Distributing email notices via the [Recycled Content E-mail Subscriber List](#).
- Sending notices to those who provided formal comment and/or attended a hearing during this rulemaking.
- Publishing a news release and social media content about rule adoption.
- Publishing public outreach materials, including:
 - Blog posts.
 - Social media content.
 - News releases in trade journals.

Find rulemaking information on the [PCRC Rulemaking Webpage](#).

- Stay up to date on any PCRC related developments by visiting the following websites:
 - [Recycled content minimums](#)
 - [Plastic producer registration](#)
 - [2021 plastics law](#)
 - [WAC 173-925 - PCRC Rulemaking Website](#)
 - [Events Listing - Washington State Department of Ecology](#)
 - [Producer List - PCR Registration & Reporting Database](#)
- Receive announcements via the [Recycled Content E-mail Subscriber List](#)
- Potential additional steps Ecology will consider include:
 - Routinely updating information on webpages.
 - Producing additional educational webinars.
 - Publishing a guidance and frequently asked questions document.
 - Publishing focus sheets and data summaries from previous reporting years.
 - Routinely updating stakeholders via the Recycled Content E-mail Subscriber List.
 - Reaching out to public with a variety of materials, including blog posts, social media content, and infographics.
 - Asking for feedback through registration and reporting process improvement surveys.

Audiences

The new rule could directly affect:

- Businesses and industry representatives.
 - Brand owners of covered products.
 - Small-scale and large-scale manufacturers.
 - Retail and wholesale sellers.
 - Distributors.
 - Industry associations and lobbyists.

The new rule could interest:

- Consumers and other members of the public.
- Community-based organizations, especially those focused on waste reduction and recycling efforts.
- Tribes, tribal organizations, and indigenous people.
- Legislators and legislative staff.
- Environmental advocacy groups and non-governmental organizations.
- Media outlets and reporters, especially environmental and state government reporters.
- Government agencies in other states, at the federal level, and in other nations.
- Others associated with regulated entities.
 - Recycling facilities.
 - Plastics industry representatives
 - Solid waste landfills.
 - Businesses relying on recycled materials.
 - Manufacturers and distributors of covered products.

Training and Informing Ecology Staff

Ecology staff responsible for implementing the new rule will be prepared to answer questions and provide technical assistance about the requirements.

The Solid Waste Management Program and Ecology staff will be informed about the requirements in the new rule and how to direct inquiries to PCRC program staff. During the rulemaking process, we presented information internally during program meetings. Staff can also receive information about the new rule during staff trainings, team meetings, the Ecology website, and Ecology's Solid Waste Management Program SharePoint site.

Promoting and Assisting Compliance

We will work with regulated entities to support their compliance efforts. Examples of support include providing technical assistance, educational videos, and virtual training.

We may conduct surveys to assess satisfaction with rule requirements and to identify areas that need further attention. We may ask for input about:

- Whether entities affected by the rule are familiar with the rule and are compliant.
- Whether our educational materials—webpages, information, videos, posters, and handouts—are easy to use and understand, and meet the needs of regulated entities, Ecology staff, and interested parties.
- Whether additional tools are needed.

We can use this information to develop tools to better support compliance. For instance, tools that promoted compliance for other environmental regulations include:

- Maintaining a system to track suggestions for improving regulations. Ecology staff, regulated entities, stakeholders, and members of the public provide comments that future rulemaking teams consider when revising rules. Ecology will add comments to the agency's internal REX database.
- Regularly updating staff about the new rule.
- Regularly updating guidance documents for the new rule.
- Establishing internal enforcement guidance with detailed protocols for issuing notices of non-compliance and potential penalties.
- Hosting webinars and creating educational videos.

Evaluating the Rule

We adopted Chapter 173-925 WAC to implement a regulatory program to record the increased use of recycled content in plastic packaging sold into Washington and to hold producers accountable to the post-consumer recycled content minimums. To accomplish this, the new rule requires producers to:

- Annually register and report the weight of plastic resin and percentage of recycled content.
- Meet increasing post-consumer recycled content minimum requirements or request adjustments, exclusions, or compliance plans.
- Pay fees that cover Ecology's cost to administer the program.

To ensure effectiveness of the PCRC program, we will:

- Monitor compliance with the reporting requirements.
 - We will review the annual notifications for accuracy, completeness, and timeliness. We will also determine if a person that is subject to the requirements failed to register. We will track the number of non-compliance notifications to see if the number increases or decreases over time.
- Oversee compliance with the PCRC minimum requirements.
 - We will conduct in-store shelf audits and online product searches to determine if the producers of covered products are registered and compliant. We will track the number of non-compliant producers to see if the number increases or decreases over time.
- Evaluate requests for exemptions and track the amount received to see if the number increases or decreases over time.
 - We will also track the outcome of each exemption request to see if we need to streamline or improve the request process.
- Seek input from regulated entities, professionals who support regulated entities, the public, overburdened communities, vulnerable populations, tribes and indigenous communities, and others.

Our staff will support regulated entities as they comply with the requirements in the new rule. We will also work with those who are out of compliance and help them achieve compliance. We will document these efforts and use this feedback to inform future rulemaking efforts.

The public may also contact staff included in the section below to share feedback on Chapter 173-925 WAC and the Post-consumer recycled content program.

More Information and Ecology Contacts

For more information:

- Join the [Recycled Content E-mail List](#).
- Visit the following webpages.
 - [Recycled content minimums](#)
 - [Plastic producer registration – Washington State Department of Ecology](#)
 - [2021 plastics law – Washington State Department of Ecology](#)
 - [WAC 173-925 – Washington State Department of Ecology](#)
 - [Chapter 70A.245 RCW](#)
- Contact the Recycled Content Team at recycledcontent@ecy.wa.gov.
- Contact the post-consumer recycled content coordinator:
 - Shannon Jones
Shannon.Jones@ecy.wa.gov
360-742-9874
- Contact the post-consumer recycled content technical assistance providers:
 - Registration & Reporting Database Assistance
 - Christina Kullberg
Christina.Kullberg@ecy.wa.gov
360-999-3769
 - Compliance Assistance
 - Heather Curtis
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