

Notes Summary:

Draft PCR Rule, Part A, definitions sub-topic meetings

Three advisory committee Zoom definitions sub-topic meetings hosted by Ecology:

- 4/28/2022, 1:00 p.m.-3:00 p.m. (Pacific Time)- “Producer”
- 5/5/2022, 10:00 a.m.-12:00 p.m. (Pacific Time) – “Household Cleaning Product”
- 5/12/2022, 10:00 a.m.-12:00 p.m. (Pacific Time) – “Personal Care Product”

Committee Members:

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

Sub-Topic Meeting Outline and Participation:

To expand upon the discussion of the PCR Rule Part A Definitions section presented in the April 14 Rule Advisory Committee Meeting , Ecology scheduled three sub-topic meetings to discuss:

- Definition of “producer”
- Definition of “household cleaning products”
- Definition of “personal care products”

Not all committee members attended each sub-topic meeting. There was also participation and input from non-committee members and from people who submitted additional input via e-mail.

In addition to discussion around the above definitions, there were other Part A topics discussed, which are summarized in the “Notes Summary” section of this document. These include definitions of “beverage” and “covered product,” concern around multi-plastic resins, consistency with other state PCR laws, considerations of product recyclability, and availability of PCR resin.

Items in the notes summary were not universally stated or agreed upon by members. Rather, they were introduced as questions or topics by one or more members. The summary notes below reflect the main discussions by the group, but may not capture all comments or input received. Anyone may continue to comment on the revised version of the draft throughout this process using [eComments](#).

Notes Summary

The following definitions and related topics were discussed by advisory committee members. For the sake of brevity and reference, the topics have been condensed to the degree possible, but all comments were documented in detail for Ecology’s consideration as we continue to draft rule language.

- **Producer Definition (primarily discussed in meeting 1)**
 - Members discussed confidentiality requests

- Members and other attendees discussed the need for a process in requesting confidentiality.
- Members expressed concerns related to:
 - Confidential information by contract manufacturers or private labels
 - Confidentiality when a manufacturer submits registration information and data on behalf of a brand
 - Ability to preserve brand confidentiality by using data provided by a co-manufacturer
 - Factoring the cost of some covered products vs others in considerations of confidentiality
- Members provided a number of scenarios, barriers, or questions for the producer requirements which might be unclear or challenging based on the existing language
 - If distributors report to manufacturers, then can manufacturers can report?
 - Production of many Stock Keeping Units (SKUs) into WA means having to get info from each brand owner
 - Where do manufacturers creating products distributed by others fit into the definition?
 - Responsibility for retailers store-branding products made under contract by other manufacturers
 - Difficulty tracking WA numbers within stores (after they have left the warehouse)
 - Packaging specifications which must be agreed upon within contracts between entities – who is considered to have decision-making authority over packaging materials?
 - Brands who change manufacturers regularly within a single reporting year
 - If a manufacturer agrees to register for a specific brand, that brand may actually include thousands more qualifying products.
- Suggested language and need for additional definitions
 - Members requested supplementing definitions for: Brands, private labels, manufacturers, co-manufacturers, and licensees.
 - Some members supported language that clarifies responsibility defaulting to brand owners. Others supported responsibility defaulting to manufacturers. Many posed questions around responsibility for entities contracting with brands or manufacturers.
- **Household cleaning product definitions (primarily discussed in meeting 2)**
 - Definition and scope of “household” – inside the house or associated with the house?
 - Discussion of how the intended use for products should impact their inclusion as covered products in this category
 - Members suggested providing clarity by listing of specific included or excluded items.
 - Members identified products which might be excluded as federally regulated products (ex: pesticides, aerosols, hand sanitizers and sanitizing wipes, and child safe containers)
- **Personal Care Products Definition (primarily discussed in meeting 3)**
 - Discussion of Ecology’s drafted definition for “drug”
 - Members noted that some non-prescription drug items in this category are federally regulated
 - Confusion around referring to exclusion as “non-prescription and prescription” drugs within PCP and HHCP container definition, but simply as “drug” in new definition.

Suggested incorporating “drug” definition into the exclusions in the “PCP and HHCP containers” definition.

- Discussion of whether personal care products used in professional settings are required to comply
- Barriers for personal care product container PCR requirements
 - Members expressed burden for small manufacturers in meeting packaging specifications
 - Addressing this concern, other members pointed to de minimis allowances for small producers, and off-ramps within the law that account for fluctuations in resin availability.
 - Members discussed impacts of the inclusion of “tubes” and “tubs” in Ecology’s draft definition of personal care products
 - Members discussed distinctions between “rigid” and “flexible” packaging and tubes. Members also discussed that the ability of a container to “bend” does not make it non-rigid (water bottles for example)
 - Some members expressed that the inclusion of tubes creates recyclability concerns and seems too expansive or far-reaching
 - Ecology used the images in the Appendix of this document for reference in this discussion
- **“Beverage” definition**
 - Members discussed both concerns and support for the inclusion of non-dairy milks and creamers in the definition of “beverage”
 - Members suggested providing clarity by listing specific items (examples: non-dairy and dairy creamer, concentrates, industrial or business-to-business syrups)
 - Members identified the need for clarity over the phrase “human consumption” – does this mean intended for consumption “as is” or can it include fluid oz products intended to be mixed with another beverages?
- **“Covered products” definition**
 - Members discussed and agreed that the covered product is the retail-ready item, not the packaging itself.
- **Recyclability and Resin Supply of Covered Products**
 - Members presented concerns about the inclusion of certain products due to their recyclability and their impact on the availability of PCR resin, including:
 - Members noted that scented products, potentially hazardous materials, and the expanded scope may impact recyclability and, consequently, future PCR resin supply
 - Members expressed concern about potential consumer confusion around recyclability of PCR content products
 - Some members noted that the law and rule are effective many years into the future, and that there will always be changes in market availability and improvements or mitigations for the recyclability of products.
 - Members also noted that issues around PCR resin availability are addressed in the law with off-ramps via petition for PCR adjustment when market conditions fluctuate and impact the feasibility of meeting the PCR content requirements
- **Multi-plastic resins**

- Members presented concerns for incorporating PCR into multi-resin products and potentially incentivizing “designing your way out of scope”.
 - Discussed specific multi-material products, for example, an aluminum can with a plastic base
- **Consistency with other state PCR laws**
 - Members discussed history of legislative considerations, intent, and past discussions around the California law definition for “household cleaning products.” There was disagreement about the content and conclusion of those discussions.
 - Members stated the importance of the fact that Washington may set a precedent for a reasonable definition of covered products
 - Members stated importance of regional alignment and continuity to reduce regulatory burden and support interstate commerce
 - Members discussed differences in application and additional scope of definitions for California’s definition of household cleaning products
 - Members noted differences in “beverage container” interpretation between Washington and Oregon.
 - Members noted that New Jersey’s regulates all rigid containers regardless of product category while California’s defines household cleaning products as specific to items in the home.

Next steps:

- **Next Advisory Committee Meeting**

June 9, 9:00 a.m. – 12:00 p.m. (Pacific Time) –Part B Draft -Producer registration, reporting, and fees

[Register in advance for this meeting](#)
- Producer registration deadline extended to **June 15, 2022.**
 - The original due date was April 1, 2022.
 - The first extension was May 18, 2022.
 - Extended due to Ecology’s evolved interim interpretation of “producer”
- In preparation for the next meeting, members and interested stakeholders should:
 - Review Annual Reporting, Registration, and Fee requirements in the original language of [RCW 70A.245](#)
 - Review Draft Part B language once available
 - Submit input and suggested rule language on the revised Part A Draft to Ecology through eComment

Reminders

A revised version of the Draft PCR Rule (Washington Administrative Code (WAC) 173-925) Part A Definitions section will be posted for [eComment](#) on the [WAC 173-925 website](#). A first draft of the upcoming Part B, which covers annual registration, reporting, and fee requirements will be e-mailed to the advisory committee on 5/26/22 for review.

Ecology restates that input and feedback is MOST helpful when accompanied by suggested alternate draft language and/or detailed explanation of what you think a proposed language alteration will accomplish (including unintended consequences, reasons the current language doesn’t work, etc). Ecology also emphasizes that the Department is granted rulemaking authority in [RCW 70A.245.090](#) to

establish rules as necessary to implement and enforce this chapter. While we cannot change the requirements of the law, we have responsibility and authority to add definitions and language as necessary to provide clarity for compliance requirements that meet the intent of the law based on the best available information.

Guidance Document: Ecology will be developing guidance to clarify items not covered in rule. The guidance document serves as an “instruction manual” that is more extensive and provides example scenarios. Guidance will be developed in tandem with the rule based on questions, discussion, and internal research. Ecology plans to release the guidance document about the same time as the rule.

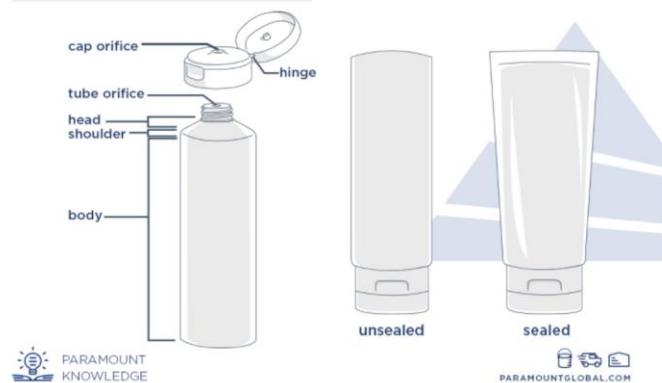
Appendix:

Personal Care and Household Cleaning Product Container packaging references

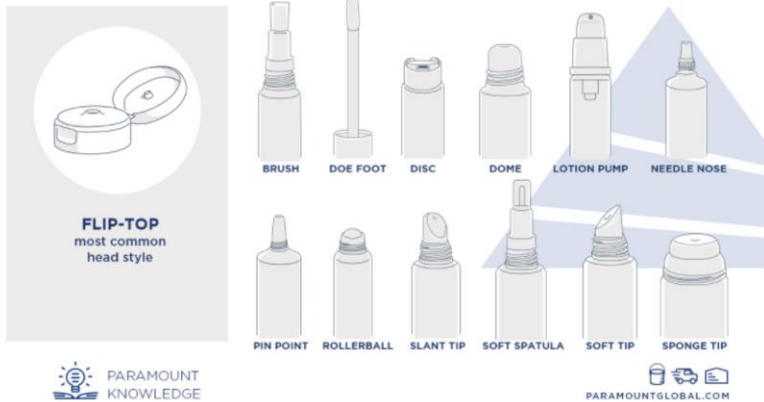
Images produced by Paramount Global:

- [About Tubes - Paramount \(paramountglobal.com\)](https://www.paramountglobal.com)
- [About Packaging Materials – Paramount \(paramountglobal.com\)](https://www.paramountglobal.com)

ANATOMY OF A TUBE



TUBE HEAD STYLES



PERSONAL CARE RIGID PACKAGING



ABOUT RIGID PACKAGING MATERIALS

