

WAC 173-925-100 Minimum PCRC penalties. (1) If the department determines that a producer is out of compliance with the minimum PCRC requirements of this chapter, the department will notify the producer in writing.

(a) The department will use the producer's reported PCRC data to determine compliance status and may use information obtained through an audit.

(b) Each PCRC product category's minimum PCRC percentage rates as outlined in WAC 173-925-060(1) apply to the penalty amounts assessed.

(c) The following producer-reported data by covered product category will be used to calculate penalties for noncompliance in accordance with equations in (d) of this subsection:

(i) Total pounds of all plastic resin;

(ii) Total pounds of PCRC plastic resin by type.

(d) Penalties will use the following formulas by PCRC product category:

(i) Equation A - Determine actual PCR rate achieved:

$$\text{Total pounds of PCRC plastic resin} / \text{total pounds of all plastic resin} = \text{Actual PCRC rate achieved}$$

(ii) Equation B - Determine PCRC penalty:

$$[(\text{Total pounds of all plastic resin} \times \text{minimum PCRC rate}) - (\text{Total pounds of all plastic resin} \times \text{actual PCRC rate achieved})] \times 20 \text{ cents} = \text{PCRC penalty}$$

(e) The department will calculate producer PCRC penalties by June of each year based on the PCRC minimum dates outlined in WAC 173-925-060(1).

(f) Producer PCRC penalty notifications will be mailed to the producer by certified mail.

(g) Penalties may be appealed to the pollution control hearings board within 30 days from the certified mail stamped receipt date to pay the PCRC penalty receipt, pursuant to chapter 43.21B RCW.

(2)(a) Producers may request penalty reductions or alternatives to PCRC minimum penalties to be considered by the department based on the information provided in the producer request that describes the following factors:

(i) Documentation of anomalous market conditions, including disruption in, or lack of supply of recycled plastics;

(ii) Date the product was manufactured, showing that the production preceded the PCRC minimum requirements for that PCRC product category;

(iii) Unforeseen circumstances such as a public health emergency, natural disaster, or state of emergency; or

(iv) Other relevant and documented factors that a producer deems has prevented them from meeting the requirements.

(b) Producers may submit a request to the department to implement a corrective action plan in lieu of or in addition to assessing a penalty under this section. The corrective action plan details how the producer will come into compliance with the requirements of this chapter.

(c) Producers may submit a request to the department for a penalty payment plan or extension of the penalty payment deadline.

(3) Penalties may be appealed to the pollution control hearings board, pursuant to chapter 43.21B RCW.

[Statutory Authority: Chapter 70A.245 RCW. WSR 23-22-102 (Order 21-09), § 173-925-100, filed 10/31/23, effective 12/1/23.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.