

# Meeting Summary

## Recycling Modernization Act Rulemaking



### Advisory Committee Meeting 5 Feb. 14, 2024

On Feb. 14, 2024, DEQ convened the fifth meeting of the Plastic Pollution and Recycling Modernization Act Rulemaking Advisory Committee, for the second of two rulemakings. The meeting was held via Zoom, and people could connect by computer or telephone.

The purpose of the meeting was to:

- Introduce the methods and use of life cycle assessment
- Present rule concepts related to the life cycle evaluation of covered products

### Meeting Summary

- **Welcome, meeting overview**

DEQ welcomed the meeting attendees and provided an overview of the agenda and what was planned for the day.

- **Introductions**

Arianne Sperry welcomed and introduced DEQ staff and the rulemaking advisory committee members. Members were asked to state their names and introduce themselves. Alternates in attendance were Tim Buwalda for Doug Mander and Sabrina Gogol for Warren Johnson. Chris Drier and Katy Nesbitt were not able to attend.

- **Introduction to Life Cycle Assessments**

Peter Canepa introduced life cycle assessments LCAs, describing what they are and how they are used to provide an understanding about the impacts of products across their full life cycle. LCAs consider a range of factors including the source for materials, how they are made into products, and what happens to them after they have been used and discarded. LCA is a predictive tool, and models potential environmental impacts. Peter noted that it is a tool that uses predictive modeling and that it does have some inherent limitations and cannot precisely predict all environmental impacts.

#### Discussion and questions from the RAC:

- DEQ was asked to clarify what was meant by 'future impacts'
  - DEQ Response: Using climate change as an example and considering emissions released in the past. LCA cannot determine with precisely how those historic emissions will interact with future conditions (which are themselves subject to change), and precisely predict their future impacts.
- How different would the results and categories be if the materials-based method was applied, and who would decide which gets used?
  - DEQ Response: The results can be similar but the approaches are different. The process-based method for LCA takes an engineering-type approach and is best suited to analyze a product. Whereas, the economic-based method is more appropriate for understanding the environmental implications of commerce at a regional scale.

#### Translations or other formats

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- **Rule Concept: [Life Cycle Evaluation of Covered Products](#)**

Nicole Portley presented proposed clarifications for rule related to life cycle evaluation of covered products. Included in this proposal is clarifying large producer disclosure requirements and ecomodulation.

DEQ recommends that PROs emphasize life cycle environmental impacts over the other four factors that PROs are required to take under consideration in developing their ecomodulation approach. The RAC was asked if they support this recommendation and whether the other factors can be accounted for through a focus on life cycle environmental impacts.

Nicole then introduced the RAC to the [ecomodulation guidance](#) document that provides background information to DEQ's approach for ecomodulated fees, and a proposal for providing bonuses related to disclosures and implementation for changes to packaging that provides a substantial impact reduction by 10 percent or more.

**Discussion and questions from the RAC:**

- There was agreement about the proposed language about "batches."
- There could be high impact products that could not be in a companies' top 1 percent of sales
- Multiple RAC members expressed support for the general LCA approach but had comments about how plastics and toxicity are treated under ecomodulation noting that:
  - o The LCA method fails to include the impact on plastics, and does not support the use of solely LCA
  - o Toxicity of plastics (nanoplastics and microplastics) is not adequately considered, and should not be excluded because there is not enough information.
    - DEQ Response: Recognizes that there are gaps on how emergent impacts are treated in LCA, and in this rulemaking DEQ is considering the use of novel methodologies to assessment emerging impacts or requiring additional reporting requirements to address those uncertainties.
- This approach should be flexible and adaptable to new information as it becomes available.
- Multiple RAC members shared comments about the limitations of LCA and how it does not address (social) community-level impacts. There are additional tools to assess communities that are overburdened by pollution and single-use packaging including EPA's EJ Screen, Community Health Needs Assessment, alternatives assessment reports and the Chemical Footprint Assessment.
  - o DEQ Response: The proposed rules will not be restricted to only utilizing life cycle assessments; DEQ is introducing it now because it is the tool most readily available and the agency has internal expertise in this area. However, DEQ will ensure that there is space for other methods to be used for this analysis.
- What is envisioned for the financial motivators that the PRO(s) will set for the producers?
  - o DEQ Response: this will be addressed later in the presentation.
- In the ecomodulated fees background document it states that malus fees are equally important as bonus fees. Why is the proposal only proposing bonuses and malus fees are not included?
  - o DEQ Response: Acknowledged that the proposed ecomodulation approach is not using incentives and disincentives. DEQ is still only proposing bonuses in rule because the PRO(s) can propose other fee adjustments in the PRO Program Plan, including malus fees.
- Multiple members agreed that DEQ should not defer incorporating malus fees to later and not rely on it being proposed voluntarily in the PRO Program Plan.
- Do the considerations evaluating plastics impact include all types of plastics, for example compostable and biodegradable plastics? Are impacts to human life being considered?
  - o DEQ Response: The MariLCA project has only published methods for physical impacts on freshwater and marine biota, including physical impacts of common biodegradable and

compostable polymers. Methods on other impacts have not been published yet, including toxicity impacts to humans. It is anticipated new methods to determine impacts on human health and life will be introduced in the future but to incorporate them, the agency would need to conduct another rulemaking.

- Why is the robustness factor not sufficient to capture the missing toxicity data?
  - o DEQ Response: This question was discussed with the rulemaking advisory panel. In the panel's provided feedback, they noted that the order of magnitude of error was so high that the robustness factor was not sufficient to address it.
- Toxicity should not be excluded.
- Plastics should be weighted equal or above climate change
  - o DEQ Response: the climate change impacts of plastics would be included. DEQ proposes to include a new category for the physical impacts of plastics.
- No producer wants to see any plastic in the environment. Producers want to move in the direction of avoiding plastic releases that harm human health and the environment.
- What is the process DEQ is proposing for establish the value of 'X' for the aggregated weighting impact factors? Who will be included in that decision?
  - o DEQ Response: The program will use a polling-based approach adapted from a European method, using DEQ experts from across the agency land, air and water quality sections.

### **Public Input Period**

The public input period was opened at 11:15 a.m. and the following people provided input:

- 1) Chris Kerry, Food Northwest  
Innovation in packaging design has always been practiced. The speed of innovation varies widely depending on whether it involves weight, dimension, or format change from one material to another, and influences how design changes can take.
- 2) Bob Fortner, Astronauts  
Regarding DEQ's LCA RFI and in response to the proposal that the packaging information would be aggregated before publishing online. Astronauts disagrees and believes that design information is akin to nutritional information is required to be included on food labels so that consumers can see what they are buying, or the EPA's requirements that car manufacturers provide the miles per gallon a vehicle can obtain. They believe that requiring producers to disclose about their packaging will unleash market competition to reduce their environmental impacts.
- 3) Scott Byrne, SONOCO  
More realistically changing packaging design takes years. For example, companies need to obtain the necessary capital to produce new packaging designing equipment and changes or new production facilities. There should also be consideration for converters. For example, making three-piece steel cans and cereal boxes that are sold to multiple producers. In theory they could share one LCA for each package to all the producers, but it would not include specific details, like for transportation. What level of specificity would be required? There should be consideration for burdens on small producers.

The public input period was closed and RAC resumed discussion from earlier:

- Multiple members wanted to continue discussing the ranking of plastics:
  - o Some agreed that plastics should be ranked in the top 3 or 5.

- Weighting considerations should include the forever nature of nanoplastics and related toxicity.
- What robustness factor will be used for plastics?
  - DEQ Response: This information about robustness and error will be taken from the MariLCA methodology.
- A consideration about potential unintentional negative incentive from bonuses:
  - Regrettable product or ingredient substitution. For example, replacing one known substance or ingredient with one that is currently understood to have negative impacts but it is not well understood, documented or regulated.
  - The amount of time and investment needed by a producer for packaging redesign might deter from pursuing a different approach that may have an overall better impact reduction.
  - By incentivizing changes that result to more product loss. May want to consider include a veto option to prevent product loss.
- There is evidence that reusable packaging extends the life of a product, perhaps this should be incorporated into any reusable packaging LCAs.
- **Rule Concept: [Life Cycle Evaluation of Covered Products](#)**  
 Peter Canepa resumed introducing the remaining proposals (#3-10) provided in the rule concepts. The concepts propose DEQ's approach to meeting requirements in statute for:
  3. Core product category rules
  4. Consideration for PEFGR impacts
  5. Life Cycle Inventory: Plastic Leakage
  6. Recycling Allocation Procedures
  7. Biogenic Carbon Accounting

**Discussion and questions from the RAC:**

- Other types of methodologies/assessments for community and social impacts exist and should be considered.
- DEQ should utilize the beginning of the program to signal expectations about which tools or methods should be used.
- How can the rule be more flexible to market development in the coming year?
- Does definition of leakage and the methodology include the microplastics and nanoplastics that shed into the environment.
  - DEQ Response: yes, the method includes leakage of macro and nano-scale plastics from key stages in the life cycle (production, distribution, and end of life).
- Does leakage include a straw that ends up in the environment?
- Using primary data for tracking should be used in addition to secondary data.
- Caution was provided about using LCAs for reusables because the assumptions can skew the impacts. LCAs for reusables should analyze a range of options.
- It is really important to use proper definitions for reuse. DEQ's definitions need to distinguish between reusable and refillable packaging.
- DEQ was asked to bring this topic back to the next meeting for further discussion.
- **Meeting adjournment and next steps**  
 DEQ adjourned the meeting at 12:30 p.m. The next RAC meeting will be held on Zoom on March 14, 2024.