The webinar will begin shortly.

Safer Products for Washington: Rulemaking Discussion

Implementing RCW 70A.350: The Pollution Prevention for Healthy People and Puget Sound Act

JUNE 28 and 29, 2022
Zoom logistics

• Send technical issues to the **host** in chat

• Send questions, comments, and discussion to **everyone** in chat

• Participants muted until we get to discussion
Safer Products for Washington: Rulemaking Discussion

From Ecology: Cheryl Niemi, Marissa Smith, Saskia van Bergen, Craig Manahan, Sascha Stump, Rae Eaton, Kimberly Goetz, Stacey Callaway, Lauren Tamboer, Autumn Falls, Amber Sergent.

From Health: Barb Morrissey, Elinor Fanning, Emily Horton.
Today’s schedule

1. Safer Products for Washington program overview
2. Changes to the Final Regulatory Determinations Report
3. Where we are in the rulemaking process
4. Discuss proposed rule requirements
5. Next steps
Section 1. Safer Products for Washington overview
Safer Products for WA background

- Implementation program
- Law signed in May 2019
- Reduce toxic chemicals in consumer products

- Working to protect:
  - People
  - Sensitive populations and species
  - Our environment
Safer Products for Washington implementation process

**Phase 1**
Priority chemical classes
The first five priority chemical classes are PFAS, PCBs, phthalates, phenols, and flame retardants.

**Phase 2**
Priority consumer products
Identify products that are significant sources of exposure to people and the environment.

**Phase 3**
Regulatory actions
Determine whether to require notice, restrict/prohibit, or take no action.

**Phase 4**
Rulemaking
Restrict the use of chemicals in products or require reporting.

May 8, 2019
What classes of chemicals are we most concerned about?

June 1, 2020
What consumer products contain these chemicals?

June 1, 2022
Do we need to regulate when these chemicals are used?

June 1, 2023
What rules do we need to keep people and the environment safe?

Back to Phase 1
Section 2. Changes to the final report
Basis for our determinations

• Found over 70 safer, feasible, available alternatives
  o All eleven product categories
  o Some chemicals, some process changes

• All potential restrictions will reduce a significant source or use of the priority chemicals
## Changes in the Final Regulatory Determinations Report

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Product</th>
<th>Draft Regulatory Action</th>
<th>Final Regulatory Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per- and polyfluoroalkyl substances (PFAS)</td>
<td>Leather and textile furniture and furnishings intended for outdoor use</td>
<td>Restriction</td>
<td>Notification</td>
</tr>
<tr>
<td>Organohalogen flame retardants (HFR)</td>
<td>Plastic external enclosures of electric and electronic products intended for outdoor use</td>
<td>Restriction</td>
<td>Notification</td>
</tr>
<tr>
<td>Polychlorinated biphenyls (PCBs)</td>
<td>Paints</td>
<td>Restriction</td>
<td>No action</td>
</tr>
<tr>
<td>PCBs</td>
<td>Printing inks</td>
<td>Restriction</td>
<td>No action</td>
</tr>
</tbody>
</table>
More changes in the Final Regulatory Determinations Report

Changes made in response to feedback:

- Clarified product categories to exclude products we didn’t intend to include in scope.
- Reviewed and added more alternatives.
- Included new hazard assessments.
- Added new references.
- Reviewed the feasibility of alternatives for specific applications.
- Changed regulatory determinations.
- More clearly connected technical chapters to the supporting methods.

We’ll conduct a cost assessment on the formal draft of the rule (fall 2022)
## Regulatory determinations in our final report

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<tr>
<td>PFAS</td>
<td>Aftermarket stain- and water-resistance treatments</td>
<td>Restriction</td>
</tr>
<tr>
<td>PFAS</td>
<td>Carpets and rugs</td>
<td>Restriction</td>
</tr>
<tr>
<td>PFAS</td>
<td>Leather and textile furniture and furnishings intended for indoor use</td>
<td>Restriction</td>
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<td>PFAS</td>
<td>Leather and textile furniture and furnishings intended for outdoor use</td>
<td>Notification</td>
</tr>
<tr>
<td>Ortho-phthalates</td>
<td>Fragrances in beauty products and personal care products</td>
<td>Restriction</td>
</tr>
<tr>
<td>Ortho-phthalates</td>
<td>Vinyl flooring</td>
<td>Restriction</td>
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<td>Restriction</td>
</tr>
<tr>
<td>HFR</td>
<td>Plastic external enclosures of electric and electronic products intended for outdoor use</td>
<td>Notification</td>
</tr>
<tr>
<td>HFR + organophosphate flame retardants (OPFR)</td>
<td>Recreational products containing polyurethane foam (covered flooring, covered mats, outdoor recreational products, and uncovered recreational products)</td>
<td>Restriction</td>
</tr>
<tr>
<td>HFR + OPFR</td>
<td>Recreational products containing polyurethane foam (covered wall padding)</td>
<td>Notification</td>
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<td>Alkylphenol ethoxylates (APEs)</td>
<td>Laundry detergent</td>
<td>Restriction</td>
</tr>
<tr>
<td>Bisphenols (excluding tetramethylbisphenol F, or TMBPF)</td>
<td>Drink can linings</td>
<td>Restriction</td>
</tr>
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<td>Bisphenols (excluding TMBPF)</td>
<td>Food can linings</td>
<td>Notification</td>
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<td>Bisphenols</td>
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Section 3. Where we are in the rulemaking process
Safer Products for Washington rulemaking process

November 2021 announced rulemaking

Summer 2022 develop formal rule

Fall 2022 assess costs of formal rule

December 2022 release formal rule, start comment period, announce public hearings

January 2023 public hearings, close comment period

June 1, 2023 deadline to adopt rule
We value your feedback

Now until fall 2022, share feedback by:

• Attending summer webinars.
• Using our online comment form.
• Emailing our team.
• Requesting a meeting with our team.

Dec. 2022 – Jan. 2023, share feedback by:

• Submitting formal comments.
• Attending public hearings.
Section 4. Discuss proposed requirements
Tell us what you think

Seeking input on:
• Restrictions and limits
• Notification requirements
• Recycled content
• Compliance schedules
• Anything else

To provide feedback:
• Type your ideas in the chat
• Raise your hand to share verbally
General notification requirements

Example notification language
The manufacturer of the following consumer product using PFAS must notify Ecology.
• Leather and textile furniture and furnishings intended for outdoor use

Notification requirements
• Notify Ecology annually.
• Use the Interstate Chemicals Clearinghouse (IC2) High Priority Chemicals Data System to notify Ecology.
• Include the name of the chemical and its CAS, the product, a description of the function of the chemical, and the total concentration.
General notification requirements

Questions to consider today

• What do you think about the notification requirements in the Children’s Safe Products Act?
• What do you think about using the IC2 database?
• How can we improve the IC2 database?
PFAS requirements

Example language (restriction)
Do not manufacture, sell, or distribute the following consumer products that contain PFAS.

- Aftermarket stain- and water-resistance treatments
- Carpets and rugs
- Leather and textile furniture and furnishings intended for indoor use

Example language (notification)
The manufacturer of the following consumer product using PFAS must notify Ecology.

- Leather and textile furniture and furnishings intended for outdoor use

Example language (rebuttable presumption)
Ecology presumes that the detection of total organic fluorine indicates the presence of PFAS.

Manufacturers may rebut this presumption by submitting a request to Ecology. Include the following information.

- Your name and address.
- A statement of the need for the rebuttal. Include information, data, and sources relevant to demonstrate the source of total organic fluorine is from a source other than PFAS.
PFAS requirements—discussion

Questions on restriction and notification

• Should this be a numeric limit instead of a restriction? Do you have data to support a numeric limit? What other limits have you seen?

• When should the restriction or limit take effect? What is feasible? What are the limitations? (may differ by product)

• If a product contains total organic fluorine and PFAS are not the source, what are other sources?

• Concerns about notification requirements?

Feedback on restriction and notification

• Comment

• Comment

Questions on general requirements

• Should the rule exclude products in these categories?

• Do any products in these categories contain PFAS because they are made of recycled material?

• Do any products have replacement parts?

• We may base requirements on the manufacture date to exempt existing stock and replacement parts. What do you think about this approach? Other ideas?

Feedback on general requirements

• Comment

• Comment
Ortho-phthalates requirements

Example language (restriction)
Do not manufacture, sell, or distribute the following consumer products that contain more than 100 ppm of any individual ortho-phthalate used as solvents or fixatives for the fragrance.

• Fragrances sold separately, such as perfumes and colognes
• Fragrances used in beauty products
• Fragrances used in personal care products

Example language (rebuttable presumption)
Ecology presumes that the detection of ortho-phthalates over 100 ppm in the following consumer products, where the ingredients list does not identify ortho-phthalates but does list fragrances, indicates the use of ortho-phthalates in fragrances.

• Fragrances sold separately, such as perfumes and colognes
• Fragrances used in beauty products
• Fragrances used in personal care products

Manufacturers may rebut this presumption by submitting a request to Ecology.
Ortho-phthalates requirements

Example language (restriction)
Do not manufacture, sell, or distribute the following consumer product that contains more than 1,000 ppm of any ortho-phthalate, individual or combined.

• Vinyl flooring

Example language (rebuttable presumption)
No rebuttable presumption for this product category.
Ortho-phthalates requirements—discussion

Questions on restrictions
• What do you think about the proposed limits? (100 ppm for fragrances and 1,000 ppm for vinyl flooring)
• What other limits have you seen? Is 100 ppm the right concentration to identify intentional use?
• When should the limit take effect? What is feasible? What are the limitations? (may differ by product)
• What do you think about the rebuttable presumption?
• Are there other uses of phthalates that aren’t identified on the ingredient list?

Questions on general requirements
• Should the rule exclude products in these categories?
• Do any products in these categories contain ortho-phthalates because they are made of recycled material?
• We may base requirements on the manufacture date to exempt existing stock. What do you think about this approach? Other ideas?

Feedback on restrictions
• Comment
• Comment

Feedback on general requirements
• Comment
• Comment
Let’s take a 10 minute break
Flame retardants requirements (scope)

Based on stakeholder feedback, we narrowed the scope for plastic external enclosures of electric and electronic products.

Example of items **in scope**
The external housing of:
- Personal computers, laptops, monitors
- Televisions, mobile phones, adaptors
- Kitchen appliances, washing machines
- Irons, hair dryers

Examples of items **not in scope**
- Printed circuit boards, internal fans, light bulbs
- Wires, cords, cables, switches, connectors
- Screens (but the enclosure of the screen is in scope)
- Wiring devices, control devices, electrical distribution equipment
- Lighting equipment that is hardwired into and becomes part of the fixed electrical wiring installation
- Components of electric and electronic products that are removable and replaceable, but not accessible once they’re in their assembled, functional form.
Flame retardants scope example

Example enclosure

Example product
Flame retardants requirements (scope)—discussion

Scope examples
Example items in scope
• Computers, laptops, monitors, TVs, mobile phones, adaptors, kitchen appliances, washing machines, irons, hair dryers

Example items not in scope
• Printed circuit boards, internal fans, light bulbs, wires, cords, cables, switches, connectors, screens, wiring devices, control devices, electrical distribution equipment.
• Lighting equipment that is hardwired into fixed electrical wiring installation.
• Components of electric and electronic products that are replaceable, but not accessible once assembled.

Questions on scope
• What do you think about the items included and not included in scope?
• What should we add or remove?

Feedback on scope
• Comment
• Comment
Flame retardants requirements

Example language (restriction)
Do not manufacture, sell, or distribute consumer products containing more than 1,000 ppm of any organohalogen flame retardant, individually or combined.

- Plastic external enclosures of electric and electronic products intended for indoor use

Note about anti-drip
- Detection of fluorine could indicate the use of a fluorinated flame retardant or the use of a fluorine based anti-drip agent.
- Fluorine based anti-drip agents are not flame retardants and are out of scope.
- Anti-drip agents are used with organophosphate flame retardants.

Example language (rebuttable presumption)
Ecology presumes that, in the specified products:
- Total bromine (Br) concentrations above 1,000 ppm indicate concentrations of organohalogen flame retardants above 1,000 ppm.
- Total chlorine (Cl) concentrations above 1,000 ppm indicate concentrations of organohalogen flame retardants above 1,000 ppm.
- Total fluorine (F) concentrations above 1,000 ppm without phosphorous indicate concentrations of organohalogen flame retardants above 1,000 ppm.

Manufacturers may rebut this presumption by submitting a request to Ecology.

Note about anti-drip
- Detection of fluorine could indicate the use of a fluorinated flame retardant or the use of a fluorine based anti-drip agent.
- Fluorine based anti-drip agents are not flame retardants and are out of scope.
- Anti-drip agents are used with organophosphate flame retardants.
Flame retardants requirements

Example language (restriction)

Do not manufacture, sell, or distribute consumer products listed in (A) below, that contain more than 1,000 ppm of any of the chemicals, individually or combined, listed in (B) below.

(A) Consumer products containing polyurethane foam
- Recreational covered flooring
- Recreational covered mats
- Recreational outdoor products
- Recreational products that are uncovered

(B) Chemicals
- Organohalogen flame retardants
- Ethylhexyl diphenyl phosphate (EHDPP, 1241-94-7)
- Tributyl phosphate (TNBP, 126-73-8)
- Triorthocresyl phosphate (TCP, 78-30-8)
- Triphenyl phosphate (TPP, 115-86-6)

Example language (rebuttable presumption)

Ecology presumes that, in the specified products:
- Total bromine (Br) concentrations above 1,000 ppm indicate concentrations of organohalogen flame retardants above 1,000 ppm.
- Total chlorine (Cl) concentrations above 1,000 ppm indicate concentrations of organohalogen flame retardants above 1,000 ppm.
- Total fluorine (F) concentrations above 1,000 ppm indicate concentrations of organohalogen flame retardants above 1,000 ppm.

Manufacturers may rebut this presumption by submitting a request to Ecology.
Flame retardants requirements

Example language (notification)

The manufacturer of the following consumer product that uses any organohalogen flame retardant must notify Ecology.

- Plastic external enclosures of electric and electronic products intended for outdoor use

Example language (notification)

The manufacturer of consumer products listed in (A) below that uses any of the chemicals listed in (B) below, must notify Ecology.

(A) Consumer products containing polyurethane foam
- Recreational covered wall padding

(B) Chemicals
- Organohalogen flame retardants
- Ethylhexyl diphenyl phosphate (EHDPP, 1241-94-7)
- Tributyl phosphate (TNBP, 126-73-8)
- Triorthocresyl phosphate (TCP, 78-30-8)
- Triphenyl phosphate (TPP, 115-86-6)
Flame retardants requirements—discussion

Questions on electric and electronic products
• What do you think about the proposed limit? (1,000 ppm HFR)
• What other limits have you seen?
• What do you think about the rebuttable presumption? Can you think of non-flame retardant sources of Br, F, Cl?
• When should the restriction or limit take effect?

Questions on products with polyurethane foam
• What do you think about the proposed limit? (1,000 ppm HFR + OPFR, individually or combined)
• What other limits have you seen?
• What do you think about the rebuttable presumption? Can you think of non-flame retardant sources of Br, F, Cl?
• When should the restriction or limit take effect?

Feedback on electric and electronic products
• Comment
• Comment

Feedback on products with polyurethane foam
• Comment
• Comment
Flame retardants requirements—discussion

Questions on notification requirements

• Do you have concerns about notification requirements for electric and electronic products?
• Do you have concerns about notification requirements for recreational products with polyurethane foam?

Questions on general requirements

• Should the rule exclude products in these categories?
• Do any products in these categories contain HFRs or OPFRs because they are made of recycled material?
• Do any products in these categories have replacement parts?
• We may base requirements on the manufacture date to exempt existing stock and replacement parts. What do you think about this approach? Other ideas?

Feedback on notification requirements

• Comment
• Comment

Feedback on general requirements

• Comment
• Comment
Alkylphenol ethoxylates requirements

Example language (restriction)

Do not manufacture, sell, or distribute the following consumer product containing more than 1,000 ppm of any alkylphenol ethoxylates, individually or combined.

• Laundry detergent
Alkylphenol ethoxylates requirements—discussion

Questions on restriction

• What do you think about the proposed limit? (1,000 ppm)
• What other limits for APEs have you seen?
• When should the restriction or limit take effect? What is feasible? What are the limitations?

Questions on general requirements

• Should the rule exclude products in these categories?
• We may base requirements on the manufacture date to exempt existing stock. What do you think about this approach? Other ideas?

Feedback on restriction

• Comment
• Comment

Feedback on general requirements

• Comment
• Comment
Bisphenols requirements

Example language (restriction)
Do not manufacture, sell, or distribute the following consumer product containing a bisphenol-based epoxy can liner, excluding TMBPF.

- Drink can linings

Example language (restriction)
Do not manufacture, sell, or distribute the following consumer product containing more than 200 ppm of any individual bisphenol.

- Thermal paper

Example language (rebuttable presumption)
Ecology presumes that the detection of bisphenols indicates the use of a bisphenol-based epoxy liner.

Manufacturers may rebut this presumption by submitting a request to Ecology.

Example language (notification)
The manufacturer of the following consumer product containing bisphenols from use of a bisphenol-based epoxy liner, excluding TMBPF-based epoxies, must notify Ecology.

- Food can linings
Questions on drink can linings

• What do you think about the proposed restriction?
• Should this be a numeric limit? Do you have data to support a numeric limit? What other limits have you seen?
• What do you think about the rebuttable presumption? What other sources of bisphenols have you seen?
• When should the restriction or limit take effect?

Questions on thermal paper

• What do you think about the proposed limit? (200 ppm of any individual bisphenol)
• What other limits have you seen?
• When should the restriction or limit take effect?

Questions on food can linings

• What do you think about the notification requirement for food can linings?

Feedback on drink can linings

• Comment
• Comment

Feedback on thermal paper

• Comment
• Comment

Feedback on food can linings

• Comment
• Comment
Questions on general requirements

- Should the rule exclude products in these categories?
- Do any products in these categories contain bisphenols because they are made of recycled material?
- We may base requirements on the manufacture date to exempt existing stock. What do you think about this approach? Other ideas?

Feedback on general requirements

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Thank you for joining us!