

On May 18, 2021, the Washington State Departments of Ecology and Health hosted a webinar to update stakeholders on our progress identifying safer alternatives that are feasible and available to replace alkylphenol ethoxylates (APEs) in laundry detergent and per- and polyfluoroalkyl substances (PFAS) in leather and textile furnishings. This document outlines the questions attendees asked during the webinar as well as the answers the Safer Products for WA team provided.

If you have questions, contact us at [SaferProductsWA@ecy.wa.gov](mailto:SaferProductsWA@ecy.wa.gov).

## Furnishings questions and answers

**Q:** Is a GreenScreen® Benchmark of 2 (or 3) sufficient to meet minimum criteria for "safer"?

**A:** GreenScreen® Benchmark 2 meets our minimum criteria for safer, so Benchmark 3 would also meet the minimum criteria. GreenScreens must be publicly available (with no redacted information), be reviewed by a third party, or be submitted to Ecology for review including all of the supporting documentation.

**Q:** By relying upon the Cradle to Cradle™ certification program, does that mean a vendor that is not using any of the identified materials must get Cradle to Cradle™ certified for Ecology to deem their product to be "safer"?

**A:** No. Cradle to Cradle™ is one method we are using to identify safer alternatives. If we were to identify safer alternatives, recommend a restriction, and go through the rulemaking process, then the restriction would only apply to the use of the priority chemical. We wouldn't require the use of a particular safer alternative. There is no requirement for safer alternatives to go through any sort of certification process. If manufacturers go through a comprehensive hazard evaluation using the Cradle to Cradle™ method, leveraging that information is useful for all of us, but there's no requirement to use any certification.

**Q:** Why is the stain treatment needed at all? Isn't an alternative not having a treatment, but dealing with stains in a different way—not treating the entire product?

**A:** We are definitely considering alternative products and processes in addition to chemical alternatives. This is a broad product category, so we want to have a conversation with stakeholders about why a stain treatment is required for certain products versus others. When we're assessing the feasibility of alternatives, we have to consider the function of the priority chemical. We can look at alternative ways to keep something stain free, but that would depend on the product. It would be difficult to rely on alternative cleaning methods for upholstered furniture used in a restaurant compared to towels, which could be cleaned more. What we've found primarily relates to upholstered products, where we do need to consider stain and soil resistance. This is something we would like stakeholder input about.

**Q:** How are new products addressed under the program once the "safer" alternatives have been identified, especially if the product has not been evaluated?

**A:** Any potential rule would only restrict the use of the priority chemical, so new products or processes that don't use that priority chemical would not be affected. We would encourage manufacturers to use safer alternatives, but it's not required in the law, so there is no process for approving new products, they just must comply with any potential restrictions from our program.

**Q:** If a product claims to be PFAS free, how do you know if it is "safer" and meets the criteria established for "safer" products? Will these products be allowed to be sold in the state?

**A:** If we know a product is PFAS free, we still don't necessarily know it is safer. We know some things are PFAS free because no chemicals are added to replace PFAS. If we're able to verify that no chemicals are added to replace PFAS, our evaluation of safer is different. Any restrictions would only restrict the use of PFAS in these products, so something that is PFAS free would be allowed to be sold in the state regardless of whether it is using a safer alternative or something we have not assessed. The law we're implementing only allows for a restriction on the priority chemical class, but we do aim to develop educational materials to help facilitate the voluntary transition to safer alternatives.

**Q:** What independent vetting was performed on GreenScreen® and Cradle to Cradle™ programs? What makes their programs authoritative?

**A:** We've spent a lot of time reviewing these programs. Our review focuses not on their authority, but on the transparency in their criteria. They both have very clear criteria for how they evaluate chemicals in products, and it's publicly available. We encourage our stakeholders to review that and let us know if they have questions or concerns. They also both have processes set up to ensure there are no biases in their certification programs, and clear standards for how they assess chemicals in the products, including impurities and breakdown products. Their assessments are conducted by toxicologists and chemists, who not only have relevant expertise, but who also have special training in the method. For the purposes of our program, we're using them as chemical hazard assessment tools rather than certification programs. We will include more information about this in our report to the Legislature on regulatory determinations.

**Q:** Can you leverage manufacturers' desire for competitive advantage to get information that they would otherwise not share with you about whether their product is actually safer?

**A:** Sometimes it is in their benefit, but for manufacturers who make both priority chemicals and alternative products, it's not always straightforward. We try to outline the benefits of sharing information, but we can't force them, so it's up to them to weigh the risks and benefits of sharing the information. We do have a [Confidential Business Information \(CBI\) process](#)<sup>1</sup> which allows us to assess the information while maintaining confidentiality.

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<sup>1</sup> [https://www.ezview.wa.gov/Portals/\\_1962/Documents/saferproducts/CBI\\_Process\\_SaferProductsWA.pdf](https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/CBI_Process_SaferProductsWA.pdf)

**Q:** Will you be sharing the slides and presentation later?

**A:** The [May 2021 presentation slides](#)<sup>2</sup> are available with our other presentation materials, on our [stakeholder website](#).<sup>3</sup>

**Q:** One of our consultants uses her own methodology to develop safer alternatives. She has received EPA grants to develop new formulations since the 1990s and has successfully encouraged industry to use them. However, they are not certified under any of the certification methodologies described here. Does Ecology have a different way to endorse those products?

**A:** We are not endorsing products, we are trying to identify safer alternatives—and not all of the potential safer alternatives that are out there. Our job is to show that there are at least some safer alternatives that are feasible and available, so we won't be doing an exhaustive review. There is no requirement for us to use certification methods at all. It's a good way to leverage completed assessments, but if there is another process that a business set up internally, they can definitely work with us and we can accept that as CBI.

**Q:** Could a manufacturer that sells a PFAS free furniture or leather good then suggest they "Scotch Guard" it with an aftermarket product? Do you plan to find and suggest PFAS free aftermarket products?

**A:** We identified three product categories for PFAS. One is the leather and textile furnishings we're discussing today, another is carpet and rugs, and the third is aftermarket stain and water resistance treatments. We are trying to avoid the regrettable substitution where someone buys an untreated product and then treats it themselves with a stain treatment, so we are looking for alternatives for those treatments as well. That product webinar will be Tuesday, July 27, 2021.

**Q:** In the case of Safer Choice certification, the use of acetone as a safer alternative added to the formulation of some Toxic Substances Control Act (TSCA) chemical based solvents receives a yellow flag. In these cases, acetone seems to be the best replacement for those types of solvents (at least in aerospace). I think it gets a yellow flag because of its very low flashpoint, which may cause a hazard. Does Ecology have any suggestions other than acetone?

**A:** Our green chemist, Saskia van Bergen, has input about this, so we will follow up to discuss potential ideas and options.

**Q:** Have you considered calling in ingredient information from manufacturers as per your authority under the law?

**A:** Yes. We are currently waiting on data coming from the vinyl flooring industry on the use of ortho-phthalates. We could use this authority to identify some products that are PFAS free versus those that contain PFAS, but right now we are stuck on getting beyond PFAS free which is why we haven't taken that action yet.

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<sup>2</sup> [https://www.ezview.wa.gov/Portals/\\_1962/Documents/saferproducts/May\\_2021\\_Webinar\\_Presentation.pdf](https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/May_2021_Webinar_Presentation.pdf)

<sup>3</sup> <https://bit.ly/SaferProductsWA>

**Q:** Why would a manufacturer disclose that competitive advantage unless they had motivation to do so?

**A:** We're hopeful that this program could bring awareness and demand for some alternatives. If a manufacturer produces an alternative, demand could be increased by a potential regulation. But it is a challenge to show manufacturers what benefits can come from sharing the information that might be giving them a competitive advantage. Many manufacturers do want to promote the use of safer alternatives, so for some it's more than about a competitive advantage but instead related to their ethos and goals. With our CBI process, we could keep the information confidential, and the manufacturer wouldn't have to lose that competitive advantage.

**Q:** Isn't PFAS being eliminated due to the regulations being promulgated under TSCA?

**A:** No. The National Defense Authorization Act added some restrictions, there are some in various states, and there is new PFAS reporting under the Toxics Release Inventory. But these changes are not under TSCA. The new EPA administrator also announced that EPA is creating a council on PFAS, but that's not a restriction.

**Q:** Were the specific PFAS chemicals used in the furnishings identified and evaluated individually?

**A:** Our approach to identifying chemical classes follows the scenarios in the first section of the National Academy of Sciences 2019 report on organhalogen flame retardants. In those scenarios, they focus on identifying data rich chemicals within the class and assuming the data poor chemicals within the class are potentially hazardous. In that way, we looked for any PFAS with a lot of information—including existing hazard assessments and authoritative reviews. We determined whether those PFAS met our minimum criteria for safer, and they did not. The data rich chemicals within the class are the basis for the criteria. We don't always look at the specific chemicals within the products because we can't always determine what was used in the product. However, we know these chemicals are members of the class, and we know that the class as a whole has problems associated with persistence and shared hazards.

**Q:** There are many different states proposing alternative regulations in addition to federal reviews of chemical safety. Is there any plan to work with other states, such as California and New York, to have consistent regulations state to state and to ensure products can still freely flow throughout the U.S.?

**A:** We do talk with California's Safer Consumer Products program frequently and you'll notice a lot of similarities between our priority product list and things they are working on, like carpets and rugs and aftermarket treatments. There are some differences because we have differently structured laws. We're also members of some workgroups like the Interstate Chemicals Clearinghouse to connect with other governments, and we aim to establish working relationships.

**Q:** If each PFAS was not identified how does Ecology know the PFAS chemicals used in furnishings have the same toxicity as the ones that have been studied?

**A:** We didn't look at the individual PFAS in products, but instead at the PFAS with a lot of toxicity and hazard information available. If we had information about which PFAS were in furnishings, we could assess it, but if it falls into a category of being "data poor," we would assume it's potentially hazardous based on the data rich chemicals within the class.

**Q:** What is the definition of "data rich" and "data poor"?

**A:** Data rich chemicals are chemicals with existing hazard assessments, or chemicals that were reviewed by authoritative sources.

### Laundry detergent questions and answers

**Q:** Are alternatives cost comparable to APEs? Is this a burden on the poor?

**A:** Since APEs have been phased out of residential-use laundry detergents, this potential restriction would only affect laundry detergents used in industrial and on-premises laundries, so a consumer for residential use would not be impacted by a price increase.

**Q:** Isn't the mandate of the regulation focused on reduction of the chemical of concern in consumer products? If a large amount of use of APEs are industrial uses, does the future restriction focus only on consumer products? If so, will this restriction significantly reduce the overall presence of APEs?

**A:** The consumer product definition in the law we're implementing is different from how we typically think of consumer products, because it incorporates both consumer and industrial uses. Our priority product report identified detergents as a significant source or use of APEs, so therefore a potential restriction would reduce a significant source or use of APEs.

**Q:** Will a complete list of CASRNs for substances be provided in the future for the broad class of AP/APEs? The final report included no CASRNs and the slide deck lists only three examples (9016-45-9, 9036-19-5, 25154-52-3). A list of CASRNs would be of great help to the regulated community to ensure a common understanding of the broad class of regulated CASRNs among all stakeholders.

**A:** That's helpful feedback that we will take into consideration as we go forward.

**Q:** How does the alternative of simply avoiding the chemical of concern fit into your process?

**A:** We're trying to figure out where a state agency stands on avoidance, where consumers stand, and where manufacturers stand. We don't have that figured out yet, so we appreciate the input and encourage stakeholders to reach out with feedback on that from all your different perspectives.

**Q:** Will drycleaners Ecology is encouraging to switch from PERC to water have another adjustment to make? Have you talked to the industrial users of APE (i.e., called them) and found out if any use the alternatives successfully already?

**A:** That's part of our product webinars. We need input from manufacturers who made the switch about how it's going for them. We haven't directly contacted any wet cleaners to learn how their detergents are working for them, but we assessed wet-cleaning detergent ingredients, and the ones we found didn't contain APEs. Any potential restrictions would just restrict APEs in detergents—they wouldn't require manufacturers to switch to something else if they're not currently using a detergent containing APEs.

**Q:** Since PCBs are a priority chemical and they are found in laundry detergent, why were they not identified as a chemical of concern?

**A:** It was not our goal to rank all possible uses of PCBs in consumer products, so we didn't assess every use of a specific chemical in different products. We also are not required to identify the **most** significant source of the chemical, just a significant source in general.

**Q:** When is the earliest that a restriction might be put in place? From previous webinars and follow up questions, June 1 2024 was the earliest date identified, is that still accurate?

**A:** We have a deadline of June 1, 2023 for completing rulemaking, and we have to provide at least one year before the effective date. Therefore, the earliest date any potential restriction would go into place would be June 1, 2024.

**Q:** Does hard water affect alternatives viability? I'm not looking for an answer but perhaps APEs work better in hard water. Water in Spokane is somewhat hard and it takes more surfactant to get stuff clean, perhaps APEs were developed to enhance cleaning in hard water.

**A:** It's certainly possible, but we haven't heard or seen that anywhere. Input about that would be welcome and we appreciate the feedback.

### All product categories overview questions and answers

**Q:** What is recreational foam, can you elaborate on that?

**A:** Recreational foam products are what you find in a gymnastics or trampoline center. Think of the foam cubes in a number of different products. They can be covered with material to create mats. It's not the materials you wear, such as during contact sports. These are the large foam pits and mats you'd find in recreational facilities. They can contain flame retardants and studies show that gymnasts are exposed to flame retardants from these products. We're considering whether we can remove flame retardants from these products and still achieve fire safety.

**Q:** You mentioned ordering data from manufacturers related to phthalates in vinyl flooring, could you explain that?

**A:** The law we're implementing gives us authority to request information about priority chemicals in priority products from manufacturers and they have six months to provide the information. We ordered information from vinyl flooring manufacturers because a non-peer reviewed study didn't find ortho-phthalates in vinyl flooring in 2018. We wanted to get an idea of that shift in vinyl flooring products and ordered that information from manufacturers.

**Q:** Can you elaborate on the products you're testing and the scope of those studies?

**A:** We're completing two product testing studies. We're looking for PCBs in printing inks, and flame retardants in electric and electronic enclosures. With electronics, we're trying to understand which flame retardants are used in different electronics. For printing inks, we're trying to get a better understanding of the ranges in the amount of PCBs in printing inks. Some printed materials show inadvertent PCBs in testing, so we wanted to better understand the levels found in inks. We're focusing this testing on inks used in publications, like newspapers and magazines. Hopefully we can use that data to generalize to other areas, since there's no reason to think that other types of inks would have different amounts of PCBs.