

Chapter 173-337 WAC

Safer Products Restrictions and Reporting

INTRODUCTION

This document outlines Preliminary Draft Rule Language for a potential new chapter (Chapter 173-337 Washington Administrative Code [WAC], Safer Products Restrictions and Reporting). This draft rule language includes restrictions and reporting requirements for the Safer Products for Washington program's first implementation cycle. If you have questions about this preliminary draft rule language, contact us at SaferProductsWA@ecy.wa.gov.

How to use this document

Make your voice heard and tell us what you think about the preliminary draft rule. What did we get right? What should we change?

Questions we have for you

In the preliminary draft, we included questions for reviewers, but we encourage you to provide feedback on any element of the draft rule. Make note of your input and bring it to a discussion August 16 or 18, 2022. [Send us your feedback in writing](#)¹ if you can't join either discussion.

Look for sections with a dark blue background and white text to find the questions our team has on the draft rule.

Tips for providing feedback during the August 16 or 18 discussions

- Tell us what you support and what you disagree with.
- Suggest specific language. This helps our team understand what change you want.
- Use examples to illustrate concerns and explain your feedback.
- Provide supplemental information. Include references supporting your concerns, (such as regulations, sales data, market information, or brand and product information).
- Offer solutions. Suggest ways we can address your concerns.

We'll use your feedback to improve our approach and write the formal draft rule. In December 2022, we'll share the formal draft rule for another round of input.

In the [Preliminary Draft Rule Language Overview](#),² we developed two tables you can refer to while reading the preliminary draft rule. One table includes specific elements of the draft rule like effective dates and details about limits. The second table includes resources we used to shape the draft rule requirements.

¹ SaferProductsWA@ecy.wa.gov

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https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/PreliminaryDraftRuleLanguage_Overview_August2022.pdf

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PART A – GENERAL

010 Authority and purpose

- (1) **Authority.** Chapter 70A.350 Revised Code of Washington (RCW) authorizes Ecology to:
 - (a) Implement, administer, and enforce Chapter 70A.350 RCW.
 - (b) Regulate priority chemicals in priority consumer products.
- (2) **Purpose.** This chapter implements Chapter 70A.350 RCW.
 - (a) This chapter provides a regulatory framework to:
 - (i) Reduce the use of priority chemicals in consumer products by establishing restrictions.
 - (ii) Increase transparency in product ingredients by requiring notification.
 - (b) This chapter establishes:
 - (i) Actions applicable persons must take to comply with the intent of Chapter 70A.350 RCW.
 - (ii) Actions applicable persons must take related to manufacturing, selling (including but not limited to wholesale, online, or retail), or distributing priority consumer products containing priority chemicals in Washington state.
 - (iii) The enforcement process Ecology will use if manufacturers fail to comply with this chapter.

015 Applicability

- (1) This chapter applies to persons who:
 - (a) Manufacture, sell (including but not limited to wholesale, online, or retail), or distribute priority consumer products containing priority chemicals in Washington state.
 - (b) Intentionally add priority chemicals in the production of priority consumer products in Washington state.
 - (c) Use a priority consumer product that contains a priority chemical in Washington state.
- (2) This chapter does **not** apply to:
 - (a) Consumer products excluded from Chapter 70A.350 RCW.
 - (b) Consumer products purchased outside of Washington state.
 - (c) Consumer products transported or stored in Washington state as part of interstate commerce.

- (d) Consumer product replacement components manufactured before the effective date of the restriction.
- (e) The recycling or disposal of existing stock.

020 Requesting an exemption

- (1) A person required to comply with this chapter may request an exemption from the requirements of this chapter.
- (2) A person seeking exemption from the requirements of this chapter must submit a request to Ecology that includes the following information.
 - (a) Your name and address.
 - (b) Requirements in this chapter from which you request an exemption.
 - (c) A statement of the need and justification for the exemption. Include information, data, and sources relevant to the need and justification.

025 Acronyms and definitions

Unless Ecology determines the context requires otherwise, the following definitions apply for the purposes of this chapter.

Bisphenol means a chemical with two phenol rings connected by a single linker atom. The linker atom and phenol rings may have additional substituents.

Chemical Abstracts Service number or **CAS** means the number assigned for identification of a particular chemical by the Chemical Abstracts Service, a service of the American Chemical Society that indexes and compiles abstracts of worldwide chemical literature called *Chemical Abstracts*.

Consumer product means any item, including any component parts and packaging, sold for residential or commercial use.

Ecology means the Washington State Department of Ecology.

Electronic product includes personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen that are used to access interactive software, and the peripherals associated with such products.

Existing stock means consumer products in commerce at the time a restriction takes effect.

External enclosures means external plastic enclosures of casings of finished electronic products sold in their functional form. Enclosures are also called device casing. Other components of the product including printed circuit boards, internal fans, wires, cords, cables, switches, light bulbs, connectors, and screens are **not** part of the external enclosure.

FDA means the United States Federal Drug Administration.

Intended for indoor use means a product designed primarily for use inside buildings.

Intended for outdoor use means a product designed to maintain functionality after exposure to ultraviolet (UV) light, water, or immersion when used outdoors for an extended time.

Intentionally added chemical means a chemical in a product that serves an intended function in the product component.

Inaccessible electronic component means a part or component of an electronic product that is located inside and entirely enclosed within another material and is not capable of coming out of the product or being accessed during any reasonably foreseeable use or abuse of the product.

Manufacturer means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product or is an importer or domestic distributor of a product sold or offered for sale in or into the state.

Organohalogen means a class of chemicals that includes any chemical containing one or more halogen elements bonded to a carbon.

Ortho-phthalates means synthetic chemical esters of phthalic acid.

Perfluoroalkyl and polyfluoroalkyl substances or **PFAS chemicals** means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

Phenolic compounds means alkylphenol ethoxylates and bisphenols.

Phthalic acid means a benzenedicarboxylic acid consisting of two carboxy groups at ortho positions.

ppm means parts per million.

Priority chemical means a chemical or chemical class used as, used in, or put in a consumer product including:

- Perfluoroalkyl and polyfluoroalkyl substances.
- Phthalates.
- Organohalogen flame retardants.
- Flame retardants, as identified by the Washington State Department of Ecology under Chapter 70A.430 RCW.
- Phenolic compounds.
- Polychlorinated biphenyls.
- A chemical identified by Ecology as a priority chemical under RCW 70A.350.020.

Priority consumer product means a product identified by Ecology to be a significant source or use of a priority chemical.

Product component means a uniquely identifiable material or coating (including ink or dye) that is intended to be included as a part of a finished product.

RCW means Revised Code of Washington.

TMBPF means tetramethyl bisphenol F (CAS RN: 5384-21-4).

U.S.C. means the United States Code.

WAC means Washington Administrative Code.

030 Enforcement and penalties

- (1) Any violation of this chapter is subject to the enforcement and penalty sanctions of Chapter 70A.350 RCW.
- (2) In accordance with Chapter 70A.350 RCW:
 - (a) A manufacturer violating a requirement of this chapter is subject to a civil penalty **not** to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty **not** to exceed ten thousand dollars for each repeat offense.
 - (b) A manufacturer may appeal any penalty provided for in this chapter to the pollution control hearings board.
 - (c) All penalties collected under this chapter shall be deposited in the model toxics control operating account created in RCW 70A.305.180.

035 Appeals

Any persons adversely affected by an Ecology decision under this chapter may appeal the decision to the Pollution Control Hearings Board pursuant to Chapter 43.21B RCW.

040 Severability

If any provision of this chapter or its application to any person is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances is not affected.

045 Federal preemption

In the event that the requirements of the Toxic Substances Control Act, 15 U.S.C. §§2601, et seq., or other applicable federal regulations or actions preempt a restriction in this chapter, that restriction changes to a reporting requirement.

050 Relation to other laws and rules

In addition to the requirements of this chapter and Chapter 70A.350 RCW, other laws, rules, and ordinances may apply to priority consumer products containing priority chemicals. Nothing in this chapter prevents persons regulated by this chapter from complying with other laws, rules, ordinances, procedures, other restrictions, or limitations on regulated consumer products.

055 Environmental justice

QUESTIONS

Ecology plans to include language about addressing environmental justice when implementing, administering, and enforcing Chapter 70A.350 RCW.

- What ideas do you have for addressing environmental justice when implementing, administering, and enforcing Chapter 70A.350 RCW?
- How should the rule incorporate environmental justice?
- What language should Ecology use in the rule?
- Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.

RESOURCES

- [Chapter 70A.02 RCW – Environmental Justice](#)³
- [Washington State Office of Equity](#)⁴
- [Washington State Department of Ecology Environmental Justice](#)⁵
- [Washington State Department of Health Environmental Justice](#)⁶
- [The White House Environmental Justice](#)⁷
- [The White House Justice40 Initiative](#)⁸

060 Previously-owned priority consumer products

No person may knowingly sell (including but not limited to wholesale, online, or retail) or distribute a previously-owned **restricted** priority consumer product that contains a priority chemical.

065 Reporting requirements

(1) Applicability

- (a) This section applies to persons required to submit notification. This chapter refers to that person as the “reporting party.”

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.02&full=true#70A.02.100>

⁴ <https://equity.wa.gov/>

⁵ <https://ecology.wa.gov/About-us/Who-we-are/Environmental-Justice>

⁶ <https://doh.wa.gov/community-and-environment/health-equity/environmental-justice>

⁷ <https://www.whitehouse.gov/environmentaljustice/>

⁸ <https://www.whitehouse.gov/environmentaljustice/justice40/>

- (b) The manufacturer of the priority consumer product or a trade organization representing the manufacturer may serve as the reporting party.
 - (c) This chapter requires only one reporting party to submit notification with respect to a priority consumer product containing a priority chemical. Use the following hierarchy to determine which persons should serve as the reporting party.
 - (i) The person or entity that had the priority consumer product manufactured.
 - (ii) The person or entity that marketed the priority consumer product under their name or trademark.
 - (iii) The first person or entity, whether an importer or a distributor, who owned the priority consumer product in the United States.
- (2) **Timing**
- (a) The reporting party must notify Ecology by January 31, 2024 and annually thereafter by January 31 each year.
 - (b) The reporting party may submit a revised notification to Ecology when a priority consumer product **no** longer contains a priority chemical.
- (3) **Notification contents.** The notification must include information about a priority consumer product sold or offered for sale in Washington state during the prior calendar year. The notification must include the following information.
- (a) The name and CAS of any chemicals included in the priority chemical class.
 - (b) The priority consumer product.
 - (c) The product component that contains the priority chemical.
 - (d) A description of the function of the priority chemical.
 - (e) The total concentration of the priority chemical in each product component in the priority consumer product.
 - (f) **Contact information**
 - (i) The name and address of the reporting party.
 - (ii) The name, address, phone number, and electronic mail address of the contact person for the reporting party.
 - (iii) When a trade organization serves as the reporting party, the notification must include a list of the manufacturers they report for and all the required information.
 - (g) Any other information the reporting party deems relevant to the appropriate use of the product.

- (4) If the reporting party determines the information in the prior annual notification did **not** change in the current reporting year, they must copy the data from the prior year's notification and resubmit that data in the online notification database.
- (5) This chapter does **not** require the reporting party to include:
 - (a) Specific formulations.
 - (b) The specific name and address of the facility responsible for the use or addition of a priority chemical in the priority consumer product or product component.
- (6) **Confidential business information (CBI)**. If the reporting party believes the information they provide is CBI, they may request Ecology treat the information as CBI as provided in RCW 43.21A.160. Ecology will use their established procedures to determine how to handle the information.
- (7) **Notification database**
The reporting party must use an Ecology-designated notification database to submit the required notification to Ecology.

DRAFT

PART B – CHEMICALS AND CONSUMER PRODUCTS

110 PFAS

(1) Aftermarket stain- and water-resistance treatments

(a) Applicability

- (i) This subsection applies to the following consumer products.
 - (A) Aftermarket stain-resistant treatments applied to textile and leather consumer products
 - (B) Aftermarket water-resistant treatments applied to textile and leather consumer products
 - (C) Aftermarket stain-resistant and water-resistant treatments applied to textile and leather consumer products
- (ii) This subsection does **not** apply to premarket topical chemical treatments applied during the manufacturing process.

- (b) **Compliance schedule.** The restriction in (c) of this subsection takes effect on January 1, 2025.

(c) Restriction

- (i) No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains intentionally added PFAS.

This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2025.

- (ii) Ecology presumes the detection of total fluorine indicates the intentional addition of PFAS.
- (iii) Manufacturers may rebut this presumption by submitting a statement to Ecology that includes the following information.
 - (A) The name and address of the person submitting the statement.
 - (B) A statement that the PFAS were **not** intentionally added and evidence supporting that statement. Include information, data, and sources relevant to demonstrate that the total fluorine is from a source other than intentionally added PFAS.

QUESTIONS

Ecology changed “cannot contain PFAS” to “intentionally added PFAS” in response to [feedback during the June webinars](#).⁹ Attendees voiced concerns about low-level contamination.

- Do you think this change addressed concerns about low-level contamination?
- Do you think this change causes other concerns? If yes, what are they?
- Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.

(2) Carpets and rugs

- (a) **Applicability.** This subsection applies to the following consumer products.
- (i) Carpets intended for indoor use or intended for outdoor use
 - (ii) Rugs intended for indoor use or intended for outdoor use, including carpeted mats
- (b) **Compliance schedule.** The restriction in (c) of this subsection takes effect on January 1, 2025.
- (c) **Restriction**
- (i) No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains intentionally added PFAS.

This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2025.
 - (ii) Ecology presumes the detection of total fluorine indicates the intentional addition of PFAS.
 - (iii) Manufacturers may rebut this presumption by submitting a statement to Ecology that includes the following information.
 - (A) The name and address of the person submitting the statement.
 - (B) A statement that the PFAS were **not** intentionally added and evidence supporting that statement. Include information, data, and sources relevant to demonstrate that the total fluorine is from a source other than intentionally added PFAS.

⁹ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/June_2022_Webinar_Presentation.pdf

QUESTIONS

Ecology changed “cannot contain PFAS” to “intentionally added PFAS” in response to [feedback during the June webinars](#).¹⁰ Attendees voiced concerns about low-level contamination.

- Do you think this change addressed concerns about low-level contamination?
- Do you think this change causes other concerns? If yes, what are they?
- Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.

(3) Leather and textile furniture and furnishings intended for indoor use**(a) Applicability**

- (i) This subsection applies to the following consumer products.
Leather and textile furniture and furnishings intended for **indoor** use
- (ii) This subsection does **not** apply to leather and textile furniture and furnishings intended for **outdoor** use.

(b) Compliance schedule. The restriction in (c) of this subsection takes effect on January 1, 2026.

(c) Restriction

- (i) No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains intentionally added PFAS.
This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2026.
- (ii) Ecology presumes the detection of total fluorine indicates the intentional addition of PFAS.
- (iii) Manufacturers may rebut this presumption by submitting a statement to Ecology that includes the following information.
 - (A) The name and address of the person submitting the statement.
 - (B) A statement that the PFAS were **not** intentionally added and evidence supporting that statement. Include information, data, and sources relevant to demonstrate that the total fluorine is from a source other than intentionally added PFAS.

¹⁰ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/June_2022_Webinar_Presentation.pdf

QUESTIONS

Ecology changed “cannot contain PFAS” to “intentionally added PFAS” in response to [feedback during the June webinars](#).¹¹ Attendees voiced concerns about low-level contamination.

- Do you think this change addressed concerns about low-level contamination?
- Do you think this change causes other concerns? If yes, what are they?
- Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.

(4) Leather and textile furniture and furnishings intended for outdoor use**(a) Applicability**

(i) This subsection applies to the following consumer products.

Leather and textile furniture and furnishings intended for **outdoor** use

(ii) This subsection does **not** apply to leather and textile furniture and furnishings intended for **indoor** use.

(b) **Compliance schedule.** The reporting requirement in (c) of this subsection takes effect on January 1, 2024.

(c) **Reporting.** The manufacturer must provide notice of the use of PFAS in a consumer product described in (a) of this subsection. The manufacturer must provide notice to Ecology in accordance with section 065.

111 Ortho-phthalates**(1) Fragrances in beauty products and personal care products****(a) Applicability**

(i) This subsection applies to the following consumer products.

(A) Fragrances sold separately, such as perfumes and colognes

(B) Fragrances used in beauty products, regardless of whether the item contains drug ingredients regulated by the FDA

(C) Fragrances used in personal care products, regardless of whether the item contains drug ingredients regulated by the FDA

(ii) This subsection does **not** apply to:

(A) Ortho-phthalates used in beauty products or personal care products for purposes other than as a solvent or fixative for fragrances.

(B) Active ingredients in products regulated by the FDA as drugs.

¹¹ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/June_2022_Webinar_Presentation.pdf

- (C) Products regulated by the FDA as medical devices.
- (b) **Compliance schedule.** The restriction in (c) of this subsection takes effect on January 1, 2025.
- (c) **Restriction**
- (i) No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains an intentionally added ortho-phthalate used as a solvent or fixative for fragrance ingredients.
- This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2025.
- (ii) Ecology presumes the detection of ortho-phthalates, where the ingredients list does **not** identify ortho-phthalates but does list fragrances, indicates the intentional addition of ortho-phthalates used in fragrances.
- (iii) Manufacturers may rebut this presumption by submitting a statement to Ecology that includes the following information.
- (A) The name and address of the person submitting the statement.
- (B) A statement that the ortho-phthalates were **not** intentionally added as a solvent or fixative and evidence supporting that statement. Include information, data, and sources relevant to demonstrate that the ortho-phthalates are from a source other than fragrances.

QUESTIONS

Ecology changed the 100 ppm limit to a restriction on “intentionally added” ortho-phthalates in response to [feedback during the June webinars](#).¹² Some attendees voiced concerns about the limit being too high.

- Do you think this change addressed concerns about the limit?
- Do you think this change causes other concerns? If yes, what are they?
- Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.

- (2) **Vinyl flooring**
- (a) **Applicability.** This subsection applies to the following consumer products.
- Vinyl flooring
- (b) **Compliance schedule.** The restriction in (c) of this subsection takes effect on January 1, 2025.

¹² https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/June_2022_Webinar_Presentation.pdf

- (c) **Restriction.** No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains more than 1,000 ppm of any ortho-phthalate, individually or combined.

This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2025.

112 Flame retardants

(1) Plastic external enclosures of electric and electronic products intended for indoor use

(a) Applicability

- (i) This subsection applies to the following consumer products.

Plastic external enclosures of electric and electronic products intended for **indoor** use that are powered by either of the following:

- (A) Standard 120 volt outlets and designed for up to 20 amp circuit
- (B) Battery

- (ii) This subsection does **not** apply to:

- (A) Plastic external enclosures of electric and electronic products intended for **outdoor** use.
- (B) Plastic external enclosure parts that weigh less than 0.5 grams.
- (C) Inaccessible components, such as printed circuit boards and internal fans.
- (D) Wires, cords, cables, switches, light bulbs, and connectors.
- (E) Screens. This subsection **does** apply to the plastic enclosure surrounding the screen.
- (F) Consumer products that receive power only when they are hardwired into and permanently part of the fixed electrical wiring of a building. This includes wiring devices, control devices, electrical distribution equipment, and lighting equipment.
- (G) Internal components that are removable and replaceable, but not accessible once the product is in its fully assembled and functional form.
- (H) Products regulated by the FDA as medical devices.

(b) Compliance schedule

- (i) The restriction in (c) of this subsection takes effect on January 1, 2025, for large businesses and small businesses who manufacture, sell (including but not limited to wholesale, online, or retail), or distribute:

- (A) Televisions (TVs) as described in (a) of this subsection.

- (B) Electronic displays as described in (a) of this subsection.
 - (ii) The restriction in (c) of this subsection takes effect on January 1, 2026, for large businesses who manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection, excluding TVs and electronic displays.
 - (iii) The restriction in (c) of this subsection takes effect on January 1, 2027, for small businesses who manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection, excluding TVs and electronic displays.
- (c) **Restriction**
- (i) No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains more than either of the following:
 - (A) 1,000 ppm of any intentionally added, **individual** organohalogen flame retardant.
 - (B) 1,500 ppm of any intentionally added, **combined** organohalogen flame retardant.

This does **not** apply to a consumer product described in (a) of this subsection manufactured before the applicable compliance schedules in (b) of this subsection.
 - (ii) Ecology presumes the detection of:
 - (A) Total **bromine** concentrations above 1,000 ppm indicate concentrations of intentionally added organohalogen flame retardants above 1,000 ppm.
 - (B) Total **chlorine** concentrations above 1,000 ppm indicate concentrations of intentionally added organohalogen flame retardants above 1,000 ppm.
 - (C) Total **fluorine** concentrations above 1,000 ppm without phosphorus indicate concentrations of intentionally added organohalogen flame retardants above 1,000 ppm.
 - (iii) Manufacturers may rebut this presumption by submitting a statement to Ecology that includes the following information.
 - (A) The name and address of the person submitting the statement.
 - (B) A statement that the consumer product described in (a) of this subsection does **not** contain more than 1,000 ppm of any intentionally added organohalogen flame retardant, and evidence supporting that statement. Include information, data, and sources relevant to demonstrate the organohalogenes are from a source other than flame retardants.

QUESTIONS

- Ecology clarified the applicability by adding “powered by 120 volt outlets and designed for up to 20 amp circuit or powered by battery” in response to [feedback during the June webinars](#).¹³
 - Is it more accurate or more useful for industry to use “volts” or should this applicability description use “watts?”
 - Do you think this change addressed concerns around the applicability of this product category?
 - Do you think this change causes other concerns? If yes, what are they?
 - Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.
- Ecology added an exclusion for plastic external enclosure parts that weigh less than 0.5 grams to address the concern around “buttons” shared during the June webinars. [TCO Certified](#)¹⁴ does not assess components of external plastic housing that weigh less than 0.5 grams. Therefore, Ecology excluded plastic external enclosure parts that weigh less than 0.5 grams.
 - Do you think this change addressed concerns around “buttons?”
 - Do you think this change causes other concerns? If yes, what are they?
 - Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.
- Ecology included three compliance schedules for this product category in response to [feedback during the June webinars](#).¹⁵ Some attendees voiced concerns about making the restriction effective as early as possible and some voiced concerns about market issues and global supply chains. Ecology included the following compliance schedules:
January 1, 2025 for televisions and electronic displays
January 1, 2026 for large businesses, excluding televisions and electronic displays
January 1, 2027 for small businesses, excluding televisions and electronic displays
 - Do you think this change addressed concerns around compliance schedules for this product category?
 - Do you think these are the appropriate groups (TVs and displays, large business, small business) to use?
 - How should Ecology define “large business” and “small business?”

¹³ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/June_2022_Webinar_Presentation.pdf

¹⁴ <https://tcocertified.com/>

¹⁵ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/June_2022_Webinar_Presentation.pdf

- Do you think this change causes other concerns? If yes, what are they?
- Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.
- Ecology changed “cannot contain organohalogen flame retardants” to “intentionally added organohalogen flame retardants” in response to [feedback during the June webinars](#).¹⁶ Attendees voiced concerns about “intentional use.”
 - Do you think this change addressed concerns about low-level contamination?
 - Do you think this change causes other concerns? If yes, what are they?
 - Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.
- Ecology added a limit of 1,500 ppm for combined organohalogen flame retardants to match the [UL 746H](#).¹⁷ The revised limit is 1,000 ppm for individual organohalogen flame retardants and 1,500 ppm for combined organohalogen flame retardants.
 - Do you think this change will help manufacturers comply?
 - Do you think this change causes other concerns? If yes, what are they?
 - Providing your ideas, revised language, references to example regulations or industry practices, and justification will help Ecology make informed changes.

RESOURCES

- Defining “large business” and “small business”
 - [RCW 19.85.020](#)¹⁸
 - [RCW 39.26.010](#)¹⁹
 - [TSCA and Small Businesses \(EPA\)](#)²⁰
 - [U.S. Small Business Administration](#)²¹
- Compliance schedules
 - [New York](#)²²
 - [European Union](#)²³

¹⁶ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/June_2022_Webinar_Presentation.pdf

¹⁷ <https://www.shopulstandards.com/ProductDetail.aspx?UniqueKey=28773>

¹⁸ <https://app.leg.wa.gov/RCW/default.aspx?cite=19.85.020>

¹⁹ <https://app.leg.wa.gov/Rcw/default.aspx?cite=39.26.010>

²⁰ <https://www.epa.gov/tsca-fees/tsca-fees-and-small-businesses>

²¹ <https://www.sba.gov/federal-contracting/contracting-guide/size-standards>

²² <https://legislation.nysenate.gov/pdf/bills/2021/A5418B>

²³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1576033291584&uri=CELEX:32019R2021>

(2) **Plastic external enclosures of electric and electronic products intended for outdoor use**

(a) **Applicability**

- (i) This subsection applies to the following consumer products.

Plastic external enclosures of electric and electronic products intended for **outdoor** use that are powered by either of the following:

- (A) Standard 120 volt outlets and designed for up to 20 amp circuit
- (B) Battery

- (ii) This subsection does **not** apply to:

- (A) Plastic external enclosures of electric and electronic products intended for **indoor** use.
- (B) Plastic external enclosure parts that weigh less than 0.5 grams.
- (C) Inaccessible components, such as printed circuit boards and internal fans.
- (D) Wires, cords, cables, switches, light bulbs, and connectors.
- (E) Screens. This subsection **does** apply to the plastic enclosure surrounding the screen.
- (F) Consumer products that receive power only when they are hardwired into and permanently part of the fixed electrical wiring of a building. This includes wiring devices, control devices, electrical distribution equipment, and lighting equipment.
- (G) Internal components that are removable and replaceable, but not accessible once the product is in its fully assembled and functional form.
- (H) Products regulated by the FDA as medical devices.

- (b) **Compliance schedule.** The reporting requirement in (c) of this subsection takes effect on January 1, 2024.

- (c) **Reporting.** The manufacturer must provide notice of the use of any organohalogen flame retardant in a consumer product described in (a) of this subsection. The manufacturer must provide notice to Ecology in accordance with section 065.

(3) **Recreational covered wall padding made from polyurethane foam**

(a) **Applicability**

- (i) This subsection applies to the following consumer products.

Recreational covered wall padding made from polyurethane foam

- (ii) This subsection does **not** apply to the consumer products listed in (4)(a)(i) of this subsection.

- (b) **Compliance schedule.** The reporting requirement in (c) of this subsection takes effect on January 1, 2024.
- (c) **Reporting.** The manufacturer must provide notice of the use of the following chemicals in a consumer product described in (a) of this subsection.
- (i) Organohalogen flame retardant
 - (ii) Organophosphate flame retardant
 - (A) Ethylhexyl diphenyl phosphate (EHDPP, CAS RN: 1241-94-7)
 - (B) Tributyl phosphate (TNBP, CAS RN: 126-73-8)
 - (C) Triorthocresyl phosphate (TCP, CAS RN: 78-30-8)
 - (D) Triphenyl phosphate (TPP, CAS RN: 115-86-6)

The manufacturer must provide notice to Ecology in accordance with section 065.

(4) **Other recreational products made from polyurethane foam**

(a) **Applicability**

- (i) This subsection applies to the following consumer products.
 - (A) Recreational covered flooring made from polyurethane foam
 - (B) Recreational covered mats made from polyurethane foam
 - (C) Outdoor recreational products made from polyurethane foam
 - (D) Uncovered recreational products made from polyurethane foam
- (ii) This subsection does **not** apply to:
 - (A) Wall covering.
 - (B) Outdoor playground equipment.

- (b) **Compliance schedule.** The restriction in (c) of this subsection takes effect on January 1, 2025.

(c) **Restriction**

- (i) No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains more than 1,000 ppm of any of the following chemicals, individually or combined.
 - (A) Organohalogen flame retardant
 - (B) Organophosphate flame retardant
 - Ethylhexyl diphenyl phosphate (EHDPP, CAS RN: 1241-94-7)
 - Tributyl phosphate (TNBP, CAS RN: 126-73-8)

- Triorthocresyl phosphate (TCP, CAS RN: 78-30-8)
- Triphenyl phosphate (TPP, CAS RN: 115-86-6)

This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2025.

- (ii) Ecology presumes the detection of:
- (A) Total **bromine** concentrations above 1,000 ppm indicate concentrations of organohalogen flame retardants above 1,000 ppm.
 - (B) Total **chlorine** concentrations above 1,000 ppm indicate concentrations of organohalogen flame retardants above 1,000 ppm.
 - (C) Total **fluorine** concentrations above 1,000 ppm indicate concentrations of organohalogen flame retardants above 1,000 ppm.
- (iii) Manufacturers may rebut this presumption by submitting a statement to Ecology that includes the following information.
- (A) The name and address of the person submitting the statement.
 - (B) A statement that the consumer product described in (a) of this subsection does **not** contain more than 1,000 ppm of any of the chemicals in (c)(i) of this subsection, and evidence supporting that statement. Include information, data, and sources relevant to demonstrate that the organohalogens are from a source other than flame retardants.

113 Alkylphenol ethoxylates

(1) Laundry detergent

- (a) **Applicability.** This subsection applies to the following consumer products.
Laundry detergent
- (b) **Compliance schedule.** The restriction in (c) of this subsection takes effect on January 1, 2025.
- (c) **Restriction.** No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains more than 1,000 ppm of any alkylphenol ethoxylates, individually or combined.

This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2025.

114 Bisphenols

(1) Drink can linings

(a) **Applicability**

- (i) This subsection applies to the following consumer products.

Drink can linings

- (ii) This subsection does **not** apply to food can linings.

- (b) **Compliance schedule.** The restriction in (c) of this subsection takes effect on January 1, 2025.

(c) **Restriction**

- (i) No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains a bisphenol-based epoxy can liner, excluding TMBPF-based epoxy can liners.

This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2025.

- (ii) Ecology presumes the detection of a bisphenol, excluding TMBPF, indicates the use of a bisphenol-based epoxy can liner.

- (iii) Manufacturers may rebut this presumption by submitting a statement to Ecology that includes the following information.

(A) The name and address of the person submitting the statement.

(B) A statement that the consumer product described in (a) of this subsection does **not** contain a bisphenol-based epoxy can liner, and evidence supporting that statement. Include information, data, and sources relevant to demonstrate that the bisphenol is from a source other than a bisphenol-based epoxy can liner.

(2) **Food can linings**

(a) **Applicability**

- (i) This subsection applies to the following consumer products.

Food can linings

- (ii) This subsection does **not** apply to drink can linings.

- (b) **Compliance schedule.** The reporting requirement in (c) of this subsection takes effect on January 1, 2024.

- (c) **Reporting.** The manufacturer must provide notice of the use of a bisphenol-based epoxy can liner, excluding TMBPF-based epoxy can liners, in a consumer product described in (a) of this subsection. The manufacturer must provide notice to Ecology in accordance with section 065.

(3) **Thermal paper**

- (a) **Applicability.** This subsection applies to the following consumer products.
Thermal paper
- (b) **Compliance schedule.** The restriction in (c) of this subsection takes effect on January 1, 2025.
- (c) **Restriction.** No person may manufacture, sell (including but not limited to wholesale, online, or retail), or distribute a consumer product described in (a) of this subsection that contains more than 200 ppm of any individual bisphenol.
This does **not** apply to a consumer product described in (a) of this subsection manufactured before January 1, 2025.

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