

Identification of Priority Chemicals Report to the Legislature Safer Products for Washington Cycle 2 Phase 1

Comment Summary



Overview

The Department of Ecology, in consultation with the Department of Health, (we) provided multiple pathways for stakeholders and the public to give feedback on our [Cycle 2 Draft Identification of Priority Chemicals Report to the Legislature](#).¹ We received over 180 comments. This document outlines some of the consistent questions and comments we received. This resource also includes information about how we considered the feedback when developing the final [Identification of Priority Chemicals Report to the Legislature](#).²

If you have questions or concerns, please contact us at SaferProductsWA@ecy.wa.gov.

Frequently Asked Questions

How do I access the comments you received about the report?

Visit our [comments page](#)³ to review comments we received through our online comment form and via email.

I made specific suggestions on the report. How did you use them?

Our team appreciates the thoughtful feedback from stakeholders and Washington communities. We integrated many suggestions, including:

- Adding new references and information.
- Adding an appendix on exemptions (Appendix C).
- Clarifying or adding details to many sections of the report.
- Describing the process used for identifying priority chemicals.
- Making editorial revisions and corrections.
- Changing the name of a priority chemical class to clarify its focus on organic chemicals (originally “chlorinated and/or brominated substances”, now “organobromine and/or organochlorine substances”).

¹ apps.ecology.wa.gov/publications/summarypages/2304038.html

² apps.ecology.wa.gov/publications/summarypages/2404025.html

³ hwtr.ecology.commentinput.com/comment/extra?id=aUG8fNS4B

We did not add or remove any priority chemicals or chemical classes to the report.

If you have specific input about how we used your comments, [contact our team](#).⁴ We welcome continued feedback and collaboration as we begin the next phase of implementation.

How does Safer Products for Washington cycle 2 phase 1 implementation intersect with other work by Ecology and Health?

This final Identification of Priority Chemicals Report to the Legislature marks the beginning of Safer Products for Washington cycle 2 phase 2. During phase 2, we'll identify priority products that are significant sources or uses of the priority chemicals and chemical classes identified in the phase 1 report.

We are implementing Safer Products for Washington cycle 2 at the same time as other cycles. Notable ongoing and concurrent efforts are:

- Ongoing compliance support for cycle 1 rules adopted in May 2023 ([Chapter 173-337 WAC](#)⁵).
- Rulemaking for cycle 1.5 focused on PFAS in products identified in our [Regulatory Determinations Report](#).⁶

The work in Safer Products for Washington is also happening concurrently with other Ecology and Health efforts, including:

- Implementing the Toxic-free Cosmetics Act ([Chapter 70A.560 RCW](#)⁷).
- Reducing impacts of 6PPD and 6PPD-quinone and identifying alternatives.

We're coordinating our work on these and other Ecology and Health initiatives to efficiently use our resources and ensure we take the appropriate actions.

Why are the definitions of priority chemical classes so broad? Why didn't you provide an exhaustive list of chemicals in scope?

We scoped priority chemical classes based on shared characteristics of chemicals within each class, such as chemical structure, physicochemical properties, and hazard. To clarify what chemicals are in scope, we included definitions based on chemical structure. This approach maintains flexibility for future phases of implementation where we'll identify priority products that contain priority chemicals and make regulatory determinations for those product-chemical combinations.

Narrowly defined classes or a focus on individual chemicals can result in less effective regulatory outcomes and regrettable substitutions. As we identify priority products, we'll still have opportunities to focus our work on specific functional uses of priority chemicals. We'll also

⁴ SaferProductsWA@ecy.wa.gov

⁵ ecology.wa.gov/regulations-permits/laws-rules-rulemaking/closed-rulemaking/wac-173-337-may2023

⁶ apps.ecology.wa.gov/publications/summarypages/2404023.html

⁷ app.leg.wa.gov/RCW/default.aspx?cite=70A.560

consider new information on the priority chemical classes established in the cycle 2 phase 1 report.

Why didn't you list other chemicals of concern as priority chemicals?

We understand that other chemicals of concern might also meet the criteria for priority chemicals or classes of chemicals. After considering the information described in our report and our work capacity for continued implementation of the other Safer Products for Washington phases, we selected the seven chemicals and chemical classes identified in the report.

While prioritizing chemicals and chemical classes, we focused on opportunities to:

- Equitably reduce exposure.
- Prevent regrettable substitutions.
- Reduce environmentally persistent chemicals.
- Reduce carcinogens, mutagens, reproductive and developmental toxicants, and endocrine disruptors.

Recurring Comments

Safer Products for Washington should not regulate chemicals by class.

The law we implement through our Safer Products for Washington program, [Chapter 70A.350 RCW](#),⁸ gives us the authority to consider chemicals by class. This approach helps us avoid assuming chemicals with no data are safe, and helps prevent regrettable substitutions where one chemical is restricted and replaced with a similar and equally or more toxic chemical.

Specific chemicals do not share all the hazards associated with the priority chemical class and should be excluded.

We recognize chemical classes show toxicological diversity. That's why we developed a process for separating a particular chemical from the broader class when we find evidence it is safer than others in the class. Learn more in Appendix C (Criteria for Safer) of our [Cycle 1 Regulatory Determinations Report to the Legislature](#).⁹

Safer Products for Washington should use a risk assessment to determine whether to list priority chemicals.

Often, governments restrict toxic chemicals in consumer products only after a process called **risk assessment** demonstrates significant harms are occurring. **Risk** is a combination of a chemical's toxicity and how much people are exposed to the chemical. Ecology and Department of Health widely use risk assessments for things like setting drinking water limits and clean-up levels—but risk assessments don't prevent the use of toxic chemicals. Risk assessments need

⁸ app.leg.wa.gov/rcw/default.aspx?cite=70A.350

⁹ apps.ecology.wa.gov/publications/summarypages/2204018.html

information about how we're exposed to chemicals and how they might be toxic to us or sensitive species. Often, scientists lack information about the chemicals in consumer products because:

- There aren't full hazard assessments for every chemical in commerce.
- People are exposed to chemicals in ways we don't know about.

This can lead to an incomplete picture. If you assess a risk based on only part of the exposure, it's easy to underestimate the risk. When it comes to toxic chemicals in consumer products, this could mean you often don't see risk from a single consumer product. However, most people use multiple consumer products, creating multiple potential sources of exposure over time. In addition, the chemicals in products people use collectively can eventually reach our environment.

To regulate toxics in consumer products, we use an approach that's focused on preventing pollution. A risk assessment approach answers, "What is the highest level of exposure we can accept?" Instead, our **hazard-based approach** asks, "Where are the opportunities to reduce exposure to toxic chemicals by using safer alternatives?" This allows us to reduce the uses of a toxic chemical before it harms people or the environment. This improves human and wildlife health and reduces environmental cleanup costs.

Products that contain a listed priority chemical class provide benefits to society.

Consumer products provide us with convenience and benefits. However, some consumer products also contain priority chemicals. Under our statute, we are required to identify safer, feasible, and available alternatives if we propose a restriction on priority chemicals in any priority products. We identify possible alternatives so people can still benefit from those products if a priority chemical is restricted.

Other governments or regulatory agencies have reached different conclusions for priority chemical classes identified in the report.

Regulatory programs use their own decision-making frameworks and might come to different conclusions. For example, one regulatory program might use a risk evaluation to make regulatory decisions, while another might use a hazard-based framework.

Safer Products for Washington is implemented under [Chapter 70A.350 RCW](#).¹⁰ Under this law, when identifying priority chemicals we focus on the hazards associated with chemical classes. We also consider information and rationales in reports by other governments and regulatory agencies.

For example, in their [Screening Assessment for the Challenge on octamethylcyclotetrasiloxane \(D4\)](#),¹¹ published in 2008, Environment Canada and Health Canada concluded that D4 met the criteria for persistence under their regulations. However, they concluded it wasn't possible to

¹⁰ app.leg.wa.gov/rcw/default.aspx?cite=70A.350

¹¹ canada.ca/en/environment-climate-change/services/archive/octamethylcyclotetrasiloxane.html

determine if D4 met the criteria for bioaccumulative at that time. Under a different regulatory framework, in 2018 the European Chemical Agency published the [Agreement of the Member State Committee on the Identification of octamethylcyclsiloxane \(D4\) as a Substance of Very High Concern](#).¹² In that agreement, the Member State Committee concluded that D4 met their criteria for very persistent. In addition, they determined D4 met the criteria for a very bioaccumulative substance. We considered both assessments and their supporting information to inform our determination to list D4 as a priority chemical class under the Safer Products for Washington program.

Additional comments

Some respondents commented that listing formaldehyde and formaldehyde releasers as a priority chemical class is not needed because these substances are adequately regulated, including through the [Toxic-Free Cosmetics Act](#)¹³ passed in 2023.

Formaldehyde and formaldehyde releasers are present in cosmetics and other consumer products. Formaldehyde is a concern for sensitive populations and species, and there might be additional opportunities to reduce exposure beyond what is possible through existing regulations. We're also aware of the ongoing [EPA risk evaluation for formaldehyde](#)¹⁴ and its designation as a high-priority substance, as well as the ongoing [IRIS Toxicological Review of Formaldehyde for inhalation exposure](#).¹⁵ We'll continue to monitor the progress of this work and any implications for the Safer Products for Washington program with respect to formaldehyde and formaldehyde releasers in consumer products.

We received some comments that our discussion of persistence and bioaccumulation potential for organobromine and/or organochlorine substances is too broad.

Although we recognize that there is diversity with respect to persistence and bioaccumulation potential for some members of this priority chemical class, it doesn't negate the other information presented in the report. We provide information that supports the relationship between the presence of bromine and chlorine in organic molecules and an increased potential for those chemicals to be persistent or bioaccumulative. In addition, chemicals within this priority chemical class have a history of regrettable substitution — where one hazardous chemical within the class has been replaced with another in-class chemical and then later recognized to also be hazardous for human health or the environment. Many of the chemicals in this class, including the regrettable substitutes, can still be broadly detected in the environment and in people. This highlights the need for a class-based approach to determining potential regulatory actions for these chemicals in products.

¹² echa.europa.eu/documents/10162/680ea46d-b626-1606-814e-62f843fe2750

¹³ ecology.wa.gov/TFCA

¹⁴ epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluation-formaldehyde

¹⁵ cfpub.epa.gov/ncea/iris_drafts/recordisplay.cfm?deid=248150

We received feedback that third-party hazard assessments should not be used to screen scientific literature.

While identifying priority chemicals, we use third-party hazard assessments, but they aren't the only source of information we consider. We only use third-party assessments when the methodology employed meets our transparency and data requirements. We also review the underlying data used in the assessments.

One benefit of this approach is that hazard information and scoring methodology are standardized in these third-party assessments. This means we can efficiently relate them to our criteria for safer, which helps identify priority chemicals and assess potential safer alternatives. To learn more about how we use third-party assessments in our work, please refer to Appendix E (Safer Certifications) of our [cycle 1 Regulatory Determinations Report to the Legislature](#).¹⁶

We received some comments showing disapproval of using a public survey to inform our priority chemical work.

Tools like the public survey are important to inform our work and understand what products and chemicals in those products are most relevant to people and the environment in Washington. We ground our Safer Products for Washington work in public input to better serve the people who live in Washington and experience the impacts of toxic chemicals in consumer products. It's hard to know what chemicals are in products, but most people know what products they use and how they use them. We used our public survey to learn about what products people use, and then we looked at the chemicals found in those products and their potential hazards. Our decisions around identifying priority chemicals were based on known and potential hazards, exposures, and impacts on sensitive species and populations from peer-reviewed literature and other authoritative sources.

We heard the opinion that cyclic volatile methylsiloxanes (cVMS) are not a concern for sensitive populations and species.

cVMS are synthetic chemicals that aren't found in the natural environment. These chemicals are very persistent and bioaccumulate, and it's likely that concentrations in the environment will continue to increase over time with continued use. There is also evidence that cVMS are mobile and able to undergo long-range transport in the environment.

When persistent chemicals like cVMS are released into the environment, it's often extremely difficult to remove them from the environment and adequately mitigate any adverse effects. Several studies have reported toxic effects of cVMS in mammals and aquatic organisms. This raises concern and increases the likelihood for adverse effects in people and the environment. Taken together, it's clear cVMS are a concern for sensitive populations and sensitive species and necessary to list as a priority chemical class.

¹⁶ apps.ecology.wa.gov/publications/summarypages/2204018.html

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