Cycle 2 Priority Products Webinar Questions and Answers: Safer Products for Washington

The Washington State Department of Ecology held two webinars on July 11, 2024, to share a summary of the final Priority Chemicals Report to the Legislature,[1] an update on our priority products research, and to ask for feedback.

Note: This document summarizes questions asked by attendees, and our responses, and includes general feedback we received during the webinars held on July 11, 2024. Find the presentation materials[2] and more information about Safer Products for Washington on the stakeholder webpage.[3] If you have questions, contact us at SaferProductsWA@ecy.wa.gov.

Questions and Answers

Stakeholders shared feedback about the process to identify products:

- We appreciate the logical and scientific approach you're taking.
- I like your approach, it makes sense. I appreciate how quickly and concisely you explained the background and this process. Thanks for laying out how and why you got to where you are now.
- Doing multiple chemicals in a single category is critical. Thank you for addressing this.
- I appreciate the transparency in this process.
- I appreciate your efforts to keep the community informed and the insights on how you are thinking about Safer Products.
- I encourage Ecology to work with the chemical manufacturers (as well as the Federal EPA in time to approve new chemicals under the Toxic Substances Control Act) to make potential regulations timelier and more cost-effective as this process progresses.

Summary of Questions and Answers

Q: What is the process to restrict chemicals?

[1] https://apps.ecology.wa.gov/publications/SummaryPages/2404025.html
[2] https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/July%202024%20Webinar%20Presentation.pdf
[3] https://www.ezview.wa.gov/site/alias__1962/37555/safer_products_for_washington.aspx

A: Under Safer Products for Washington, we're required to follow a five-year process to restrict chemicals in consumer products. This process requires that we take the following steps:

1. Identify priority chemicals and chemical classes.
2. Identify priority products that are significant sources or uses of priority chemicals—(we are here!).
3. Make a regulatory determination— we can only restrict if safer alternatives to priority chemicals are feasible and available in priority products.
4. Adopt rules.

Q: You are only looking at about ten products. How can you do more? Can you use function instead of product?

A: Per the statute, we do consider use, but we have to focus on the products themselves. It's a challenge to maximize our scope. We have limited resources, and the workload mounts as we work through the phases.

One option is to focus on specific components of products. That allows us to cover a broad category of products, with a narrow focus. For example, in cycle 1 we looked at electrical and electronic products broadly but focused on the plastic external enclosure components of these products.

Q: How can you use community input without unintentionally focusing on chemicals that are the most publicized, but not necessarily the most toxic?

A: Because the universe of chemicals and products is so big, we want to make sure that we're considering the chemicals and products people in Washington are concerned about. We use community input to set the priority of what we research, but ultimately we rely on peer-reviewed science and other information for prioritization. For example, if there were significant concerns about chemicals in cosmetics, we would use scientific tools to evaluate chemicals found in cosmetics and their hazards.

There are rigorous criteria in the statute that priority chemicals and products must meet. If the scientific data doesn't support the concern, those chemicals won't be prioritized.

Q: Chemical classes often treat all chemicals as equal, but most times not all chemicals in a class are equal in terms of hazards. How do you manage variability?

A: We deal with variability in three different ways:

1. When we're identifying the priority chemical class. At this stage, we screen chemicals with hazard information to identify any that have data showing they may be safer.

2. When we're identifying safer alternatives. To determine if the alternative is safer than the existing chemical or process, we consider the chemicals in the class potentially found in the product. We use that to decide whether alternatives need to meet our minimum, or additional hazard, criteria to be safer.
3. When we're excluding chemicals within the class that are potentially safer alternatives we set transparent and rigorous "within-class" criteria. It can be used to exclude chemicals within the class using data to demonstrate they don't share the hazards of the class as a whole. For example, we used these criteria to exclude tetramethyl bisphenol F in our regulation of bisphenols in food and drink cans.

Q: How can you assess exposure potential when you don't have biomonitoring data related to product use?

A: We have biomonitoring studies for most of the priority chemicals classes, but we don't often know what percentage of that exposure comes from specific products. Instead, we review exposure pathways. For example, we ask questions like "What cosmetics are being used," and "Is there potential for exposure"?

Q: Is food packaging included under packaging?

A: We're looking broadly at packaging, including chemicals in food packaging. Among other resources, we use the Database on Migrating and Extractable Food Contact Chemicals (FCCmigex Database)[4] to learn more about chemicals in food packaging.

Q: What lesson learned came out of Cycle 1, given this was the first go at the process?

A: We have made a few changes based on lessons learned from cycle 1. Two lessons stand out:

1. We need manufacturers to provide input on product categories, scopes, and descriptions early. This helps us communicate who needs to be involved in discussions.
2. Discussing costs and benefits earlier in the process is helpful. In cycle 1, we only considered costs and benefits during the rulemaking process. We added a preliminary market analysis to our regulatory determinations report during cycle 1.5 phase 3: Regulatory Determinations Report to the Legislature: Safer Products for Washington Cycle 1.5 Implementation Phase 3.[5] Adding a market analysis to our cycle 1.5 regulatory determination report gave interested parties an additional opportunity to provide feedback on our economic analyses and allowed us to consider market factors when making regulatory determinations.

[4] https://www.foodpackagingforum.org/resources/fccmigex

[5] https://apps.ecology.wa.gov/publications/SummaryPages/2404023.html

Q: Is it possible, under the statute, for Ecology to relax or loosen regulation of Cycle 1 priority products if Ecology determines that new information demonstrates the original Cycle 1 regulations were based on old data and better data is now available?

A: Yes; we can address any of the previous regulations that have been adopted. If scientific information provided new data, we would address it. However, additional scientific information frequently reveals that things are worse than we thought so loosening regulations isn't a likely outcome.

A change in the regulations would most likely occur during the next scheduled rulemaking process, rather than scheduling a separate rulemaking process.

Q: How can companies stay up to date about new regulations?

A: Please join our stakeholder email list[6] to receive updates and information about our upcoming webinars. You can contact us and provide input as we move forward with Safer Products for Washington.

Right now, we describe our process to identify priority products. After we decide which products to focus on, we'll make regulatory determinations and then go through the rulemaking process for this cycle.

We adopted Chapter 173-337 WAC[7] in May 2023 and are currently in the process of implementing regulatory determinations on PFAS in products. Please check out our PFAS rulemaking[8] webpage for more information about that rulemaking.

We also have a green chemistry program[9] that includes resources to help people move away from toxic chemicals.

Contact

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ADA Accessibility

To request an ADA accommodation, contact us by phone at 360-407-6700, by email at hwtrpubs@ecy.wa.gov, or visit ecology.wa.gov/accessibility. For Relay Service or TTY call 711 or 877-833-6341.

[6] https://public.govdelivery.com/accounts/WAECY/signup/40160
[7] https://app.leg.wa.gov/WAC/default.aspx?cite=173-337
[8] https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-337-nov2023
[9] https://ecology.wa.gov/Waste-Toxics/Reducing-toxic-chemicals/Green-chemistry