



Concise Explanatory Statement: Chapter 173-337 WAC Safer Products Restrictions and Reporting (Cycle 1.5)

Summary of Rulemaking and Response to Comments

Hazardous Waste and Toxics Reduction Program
Washington State Department of Ecology
Olympia, Washington

November 2025, Publication 25-04-071

Publication Information

This document is available on the Department of Ecology's website at:
<https://apps.ecology.wa.gov/publications/SummaryPages/2504071.html>

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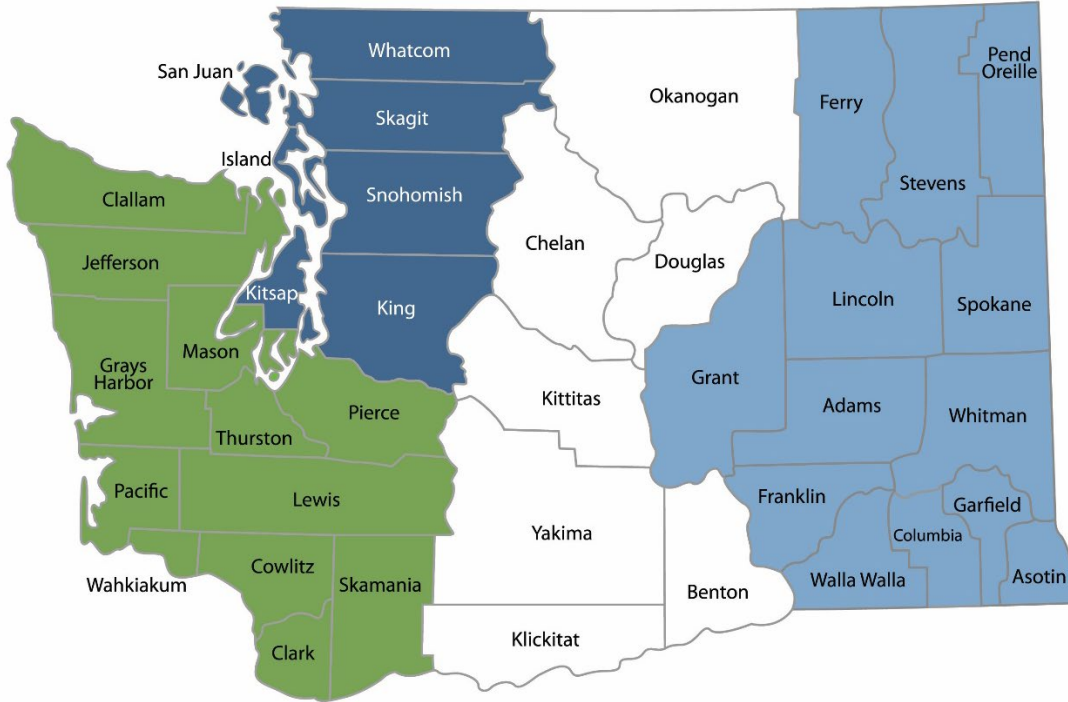
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DEPARTMENT OF
ECOLOGY
State of Washington

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Introduction

The Washington State Department of Ecology (Ecology, we) developed this Concise Explanatory Statement to:

- Comply with section 325 of the Administrative Procedure Act that requires agencies to prepare a Concise Explanatory Statement ([RCW 34.05.325](#)).³
- Provide reasons for adopting the rule.
- Describe differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.

This Concise Explanatory Statement provides information on Ecology's rule adoption for:

Title: Safer Products Restrictions and Reporting
WAC chapter: 173-337
Adopted: November 20, 2025
Effective: December 21, 2025

The Concise Explanatory Statement Appendices document includes written comments, verbal testimony provided, and the proposed rule with track changes. To view the Concise Explanatory Statement Appendices document, visit [this publication's summary page](#).⁴

To see more information related to this rulemaking or other Ecology rulemakings, visit [Ecology's laws, rules, and rulemaking webpage](#).⁵

³ app.leg.wa.gov/RCW/default.aspx?cite=34.05.325

⁴ apps.ecology.wa.gov/publications/SummaryPages/2504071.html

⁵ ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking

Overview of this rulemaking

On December 8, 2023, we [announced](#)⁶ the start of rulemaking to amend Chapter 173-337 WAC: Safer Products Restrictions and Reporting. In December 2023, we invited stakeholders and the public to comment on our draft regulatory determinations report. We hosted webinars in [December 2023](#)⁷ and [August 2024](#)⁸ to share information about the rulemaking process and invite attendees to inform draft rule requirements. We used feedback from webinar attendees and meetings with interested parties to develop a [preliminary draft rule](#).⁹ In September 2024, we released the preliminary draft rule, provided an informal comment period, and hosted a [webinar](#) to answer questions and record feedback.¹⁰

On June 4, 2025, we [proposed](#)¹¹ the [formal draft rule](#)¹² (proposed rule) and rulemaking documents, including the [Preliminary Regulatory Analyses](#)¹³ and the [Draft SEPA Determination of Nonsignificance](#).¹⁴ We accepted formal comments on the proposed rule and other rulemaking documents from June 4, 2025, through July 20, 2025. We hosted online information sessions and formal hearings on July 9, 2025, and July 10, 2025. During the formal comment period, we received 45 submissions (see Appendix A), including verbal testimony (see Appendix B) provided during the July [hearings](#).¹⁵ We used that feedback to develop the [adopted rule](#),¹⁶ this Concise Explanatory Statement, the [Final Regulatory Analyses](#),¹⁷ and the [Rule Implementation Plan](#).¹⁸

Ecology director Casey Sixkiller signed and adopted the revisions to Chapter 173-337 WAC on November 20, 2025.

Rulemaking authority

We adopted revisions to Chapter 173-337 WAC to comply with the Pollution Prevention for Healthy People and Puget Sound Act ([Chapter 70A.350 RCW](#)).¹⁹ That law directs

⁶ <https://ecology.wa.gov/rulemaking-announcement-wac-173-337-12-06-23>

⁷ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/December2023_PFASCycle_Presentation.pdf

⁸ <https://ecology.wa.gov/webinar-presentation-aug-14>

⁹ <https://ecology.wa.gov/draft-rule-language-wac-173-337>

¹⁰ <https://ecology.wa.gov/sept-25-webinar-materials>

¹¹ <https://ecology.wa.gov/rulemaking-proposal-wac-173-337-06-04-25>

¹² <https://ecology.wa.gov/getattachment/0a1b0d2c-90ce-434b-b910-309978c9053e/RDS-6288-2-For-Filing.pdf>

¹³ <https://apps.ecology.wa.gov/publications/SummaryPages/2504027.html>

¹⁴ <https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=202502318>

¹⁵

https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/Cycle%201.5%20PFAS%20Rulemaking%20Proposal.pdf

¹⁶ <https://ecology.wa.gov/adopted-rule-language-wac-173-337-11-20-25>

¹⁷ <https://apps.ecology.wa.gov/publications/SummaryPages/2504072.html>

¹⁸ <https://apps.ecology.wa.gov/publications/SummaryPages/2504074.html>

¹⁹ <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.350>

Ecology, in consultation with the Department of Health (Health), to determine regulatory actions to increase transparency and reduce the use of priority chemicals in priority consumer products. To satisfy this requirement, we published the [Regulatory Determinations Report to the Legislature: Cycle 1.5](#)²⁰ in May 2024. The law also directs Ecology to conduct a rulemaking to adopt those regulatory actions in rule. We [announced](#)²¹ the Safer Products for Washington Cycle 1.5 Rulemaking on December 8, 2023.

²⁰ <https://apps.ecology.wa.gov/publications/SummaryPages/2404023.html>

²¹ ecology.wa.gov/rulemaking-announcement-wac-173-337-12-06-23

Reasons for adopting the rule

In 2022, the Washington State Legislature amended [RCW 70A.350.090](#)²² and directed Ecology to:

- Consider firefighting personal protective equipment and products identified in Ecology's [PFAS Chemical Action Plan](#) (revised 2022).²³
- Determine regulatory actions for specific products containing per- and polyfluoroalkyl substances (PFAS) by June 1, 2024.
- Adopt those regulatory actions in rule by December 1, 2025.

On November 20, 2025, Ecology adopted amendments to Chapter 173-337 WAC to:

- Restrict the manufacture, sale, and distribution of three new categories of consumer products in Washington State that contain intentionally added PFAS. These product categories include:
 - Apparel and accessories
 - Automotive washes
 - Cleaning products
- Require manufacturers to report the intentional use of PFAS in nine new product categories:
 - Apparel intended for extreme and extended use
 - Footwear
 - Gear for recreation and travel
 - Automotive waxes
 - Cookware and kitchen supplies
 - Firefighting personal protective equipment
 - Floor waxes and polishes
 - Hard surface sealers
 - Ski waxes

The restrictions and reporting requirements in the amended rule:

- Affect manufacturers, distributors, and retailers of the 12 product categories that operate in Washington State.
- Apply to regulated consumer products sold online and in physical stores.

PFAS are a class of toxic chemicals that are used for various functions in consumer products, such as adding water resistance in apparel or to aid in soil or stain removal in

²² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.350.090>

²³ <https://apps.ecology.wa.gov/publications/summarypages/2104048.html>

cleaning products. Although those qualities have made them widely used in a range of products, many of these chemicals have also been shown to build up in people, animals, and the environment over time. They're often called "forever chemicals" because many don't completely break down in the environment.

People can be exposed to PFAS when they use products containing PFAS. Consumer products can also release PFAS into dust or the air. Many PFAS are linked to cancer as well as reproductive and developmental harm in humans. They are also linked to toxicity in fish and wildlife.

The intent of the amended rule is to:

- Protect Washington residents, particularly sensitive populations like children and people with higher toxic exposures.
- Make consumer products safer and reduce consumers' and workers' exposure to PFAS.
- Increase transparency so consumers can make more informed decisions about the products they use every day.

Differences between the proposed rule and the adopted rule

[RCW 34.05.325\(6\)\(a\)\(ii\)](#)²⁴ requires Ecology to describe the differences between the text of the proposed rule as published in the Washington State Register (WSR) and the text of the rule as adopted—other than editing changes—and state the reasons for the differences.

The adopted rule filed on November 20, 2025, and the proposed rule filed on June 4, 2025 ([WSR 25-12-097](#))²⁵ have some differences. We made these changes:

- In response to comments we received.
- To ensure clarity and consistency.
- To meet the intent of the authorizing statute.
- To facilitate effective program implementation.

The following content describes the changes we made and our reasons for making them. This section doesn't include changes made solely to correct typographical errors. See Appendix C for the exact changes made to the proposed rule.

- Acronyms and definitions (section 025)
 - Revised the definition of “extreme and extended use” to add “apparel intended for” to the definition title and to add specificity on intended performance and use.
 - Revised the definition of “cookware and kitchen supplies” to clarify that the definition applies to durable houseware items that are intended to contact food or beverages. We added lids to the list of example cookware and kitchen supplies. We also excluded major appliances, such as refrigerators and stoves, from this definition.
 - Revised the definition of “gear for recreation and travel” to clarify that it includes nonclothing equipment and accessories used for recreation and travel.
- PFAS (section 110)
 - Revised the 12 product categories adopted under this rulemaking to include a 50 ppm de minimis threshold for total fluorine to presume the intentional addition of PFAS.
 - Revised applicability for cleaning products to clarify the:
 - Applicability of this section to formulated cleaning products intended for residential, commercial, and institutional uses.

²⁴ app.leg.wa.gov/RCW/default.aspx?cite=34.05.325

²⁵ <https://lawfilesexternal.wa.gov/law/wsr/2025/12/25-12-097.htm>

- Use of “cleaning products” consistently throughout the section.
- List of products in this consumer product category includes, but is not limited to, the items listed.
- Cleaning products with disinfectants are included in this consumer product category.
- Clarify the meaning of industrial.
- Exclude pesticidal products not marketed as cleaning products.

Commenter index

Ecology accepted formal comments on the proposed rule during the 46-day formal public comment period that closed on July 20, 2025. We received a total of 45 comments (see [Appendices](#)), including three verbal testimonies provided during the July [hearings](#).²⁵ Several submissions included multiple comments, and some submissions represented many individuals or organizations. We accepted formal comments via:

- Ecology's [online comment tool](#).²⁶
- United States mail.
- The Safer Products for Washington [email](#).²⁷
- Two online public hearings held on July 9 and 10, 2025.

To find our response to your comment, first find your name or organization on one of the following lists:

Commenter List 1: Comments from individuals and organizations. This list includes each commenter, the topics they commented on, and the comment code. To see our response to your comment, find your name or organization in this list and go to the section and comment code listed for your topic.

Commenter List 2: Toxic-Free Future petition. If you signed Toxic-Free Future's petition, find your name on this list and our response in [3.1 Toxic-Free Future](#).

Commenter List 3: Toxic-Free Future multi-organization letter. If you are an organization that signed on to Toxic-Free Future's multi-organization comment letter, find your organization's name on this list and our response in [3.2 Toxic-Free Future](#).

²⁵ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/Cycle%201.5%20PFAS%20Rulemaking%20Proposal.pdf

²⁶ login.smartcomment.com/

²⁷ SaferProductsWA@ecy.wa.gov

Commenter List 1: Comments from individuals and organizations

| Commenter | Affiliation | Submittal method | Comment code and topic |
|---------------|------------------------------------|------------------|---|
| Anonymous | Self | Written | 4.1.A. Miscellaneous. Other products and chemicals – Artificial fragrances. |
| Anonymous | Self | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. |
| Archer, Sam | Self | Written | 1.1.A. Rulemaking process. General support. 1.2.A. Rulemaking process. Regulatory determinations. 2.5.A. Rule language. Intentionally added. 2.10.A. Rule language. Reporting loopholes. |
| Attilio, Fran | The Cookware and Bakeware Alliance | Written | 1.5.A. Rulemaking process. Training. 2.3.A. Rule language. Total fluorine. 2.7.B. Rule language. Reporting requirements – Harmonize. |
| Beine, David | Regal Ware | Written | 1.5.A. Rulemaking process. Training. 2.3.A. Rule language. Total fluorine. 2.7.B. Rule language. Reporting requirements – Harmonize. |
| Beine, David | SynergyOps | Written | 1.5.A. Rulemaking process. Training. 2.3.A. Rule language. Total fluorine. 2.7.B. Rule language. Reporting requirements – Harmonize. |

| Commenter | Affiliation | Submittal method | Comment code and topic |
|----------------|---|------------------|--|
| Bennett, Steve | Household & Commercial Products Association | Written | <p>1.3.A. Rulemaking process. Preliminary regulatory analyses.</p> <p>1.5.A. Rulemaking process. Training.</p> <p>2.1.G. Rule language. Definitions – Intentionally added.</p> <p>2.2.D. Rule language. Applicability – Cleaning products.</p> <p>2.2.E. Rule language. Applicability – Cleaning products.</p> <p>2.2.G. Rule language. Applicability – PFAS as propellant.</p> <p>2.3.A. Rule language. Total fluorine.</p> <p>2.4.D. Rule language. De minimis threshold for total fluorine.</p> <p>2.9.B. Rule language. Dates and deadlines – Date of manufacture for reporting.</p> <p>2.9.C. Rule language. Dates and deadlines – Compliance date for disinfectants.</p> <p>2.11.A. Rule language. Credible evidence.</p> <p>4.6.A. Miscellaneous. California Cleaning Product Right to Know Act</p> |
| Burchell, Ken | Self | Written | <p>1.1.A. Rulemaking process. General support.</p> |
| Bynes, Coleman | Self | Written | <p>4.1.E. Miscellaneous. Other products and chemicals – Forever chemicals.</p> |
| Byrnes, Katie | Washington Conservation Action Education Fund | Written | <p>2.6.A. Rule language. Restrictions – Support.</p> <p>2.6.B. Rule language. Restrictions – PFAS in cookware and kitchen supplies.</p> <p>2.7.A. Rule language. Reporting requirements – Objections.</p> <p>2.8.A. Rule language. Safer alternatives.</p> <p>4.3.A. Miscellaneous. Authority to identify alternatives.</p> |

| Commenter | Affiliation | Submittal method | Comment code and topic |
|-----------------|-------------------|------------------|---|
| Callahan, Kevin | BP Polymers, LLC | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 2.1.F. Rule language. Definitions – Intentionally added. 4.1.F. Miscellaneous. Other products and chemicals – Packaging and pesticide and agricultural products. |
| Carroll, Linda | Self | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. |
| Dalluge, Elisia | Self | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 1.4.A. Rulemaking process. Regulations for holistic care. 4.1.B. Miscellaneous. Other products and chemicals – Cosmetics. |
| Dalluge, Elisia | Self | Written | 2.9.E. Rule language. Dates and deadlines – Effective dates. 2.14.B. Rule language. Enforcement. 2.14.C. Rule language. Enforcement – Penalties. 4.3.A. Miscellaneous. Authority to identify alternatives. 4.4.A. Miscellaneous. Transparency. |
| Dick, Frank | City of Vancouver | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 2.1.A. Rule language. Definitions – Apparel for extreme and extended use. 2.2.A. Rule language. Applicability – Commercial products. |
| Donovan, Jeff | City of Spokane | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 4.1.H. Miscellaneous. Other products and chemicals – Future priority products. |

| Commenter | Affiliation | Submittal method | Comment code and topic |
|------------------------|--|------------------|--|
| Finarelli, Christopher | Household & Commercial Products Association | Verbal | 2.2.D. Rule language. Applicability – Cleaning products. |
| Frazier, Victor | Self | Written | 4.2.A. Miscellaneous. Spokane aquifer. |
| Gardner, Tristan | Public Health Seattle & King County Hazardous Waste Management Program | Written | <p>2.1.C. Rule language. Definitions – Apparel for extreme and extended use.</p> <p>2.2.F. Rule language. Applicability – Cookware and kitchen supplies.</p> <p>2.2.H. Rule language. Applicability – Disposable undergarments and hygiene products.</p> <p>2.2.I. Rule language. Applicability - Electronic devices and accessories category for apparel.</p> <p>2.2.J. Rule language. Applicability – PPE for additional occupations.</p> <p>2.5.A. Rule language. Intentionally added.</p> <p>2.6.A. Rule language. Restrictions – Support.</p> <p>2.6.B. Rule language. Restrictions – PFAS in cookware and kitchen supplies.</p> <p>2.6.C. Rule language. Restrictions – Recycled products containing PFAS.</p> <p>2.12.D. Rule language. Exemptions and exemption process – Transparent process.</p> <p>2.14.A. Rule language. Enforcement.</p> <p>2.14.C. Rule language. Enforcement – Penalties.</p> <p>4.7.A. Miscellaneous. Coordinate with U.S. EPA.</p> <p>4.8.A. Miscellaneous. Labels.</p> |

| Commenter | Affiliation | Submittal method | Comment code and topic |
|-------------------|---|------------------|--|
| Godlewski, Peter | Association of Washington Business | Written | 1.4.B. Rulemaking process. Alignment with other regulations. 2.3.A. Rule language. Total fluorine. 2.4.C. Rule language. De minimis threshold for total fluorine. 2.11.A. Rule language. Credible evidence. 2.12.B. Rule language. Exemptions and exemption process – Recycled content. |
| Gurol, Kamuron | King County Wastewater Treatment Division | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 1.7.A. Rulemaking process. Accelerate timelines for future restrictions. Also see comment codes and topics listed under Tristan Garder of the Public Health Seattle & King County Hazardous Waste Management Program |
| Gutiérrez, Carlos | Consumer Healthcare Products Association | Written | 1.6.B. Rulemaking process. Analytical methods. 2.1.D. Rule language. Definitions – Apparel and accessories. 2.3.A. Rule language. Total fluorine. 2.4.A. Rule language. De minimis threshold for total fluorine. |
| Hancock, John | West Plains Water Coalition | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. |
| Hart, Nathan | Seattle Public Utilities | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 1.7.A. Rulemaking process. Accelerate timelines for future restrictions. 2.12.D. Rule language. Exemptions and exemption process – Transparent process. |
| Jensz, Ron | Envalior | Written | 4.9.A. Miscellaneous. Late submittal. |
| Jones, Ed | Self | Written | 1.1.A. Rulemaking process. General support. |

| Commenter | Affiliation | Submittal method | Comment code and topic |
|----------------------|---|------------------|--|
| Keane, John | Association of Home Appliance Manufacturers | Written | <p>2.1.E. Rule language. Definitions – Cookware and kitchen supplies.</p> <p>2.2.C. Rule language. Applicability – Cleaning products.</p> <p>2.7.C. Rule language. Reporting requirements – Harmonize.</p> <p>2.9.A. Rule language. Dates and deadlines – Cookware and kitchen supplies.</p> |
| Koyamatsu, Kami | Self | Written | <p>1.1.A. Rulemaking process. General support.</p> |
| Labrucherie, Bernie | Self | Written | <p>4.1.C. Miscellaneous. Other products and chemicals – Fireworks and plastics.</p> |
| Leatherman, Crystal | Washington Retail Association | Written | <p>1.3.B Rulemaking process. Preliminary regulatory analyses.</p> <p>2.6.D. Rule language. Restrictions – Apparel intended for extreme and extended use.</p> <p>2.7.D. Rule language. Reporting requirements – De minimis threshold for reporting.</p> <p>2.9.D. Rule language. Dates and deadlines – Grace period.</p> <p>2.9.F. Rule language. Dates and deadlines – Clarity on reporting timeline.</p> <p>2.12.C. Rule language. Exemptions and exemption process – Preempted products.</p> <p>2.13.A. Rule language. Confidential business information.</p> <p>2.14.D. Rule language. Enforcement – Compliance responsibility.</p> |
| Louderback, Samantha | Printing Industries of Washington | Written | <p>4.1.D. Miscellaneous. Other products and chemicals – PCBs.</p> |
| Maish, Dianna | Self | Written | <p>1.1.A. Rulemaking process. General support.</p> <p>1.1.B. Rulemaking process. PFAS concerns.</p> |

| Commenter | Affiliation | Submittal method | Comment code and topic |
|-------------------|---|------------------|--|
| Moffat, Lorna | Self | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 1.6.A. Rulemaking process. Outreach. 4.1.G. Miscellaneous. Other products and chemicals – Biosolids. |
| O'Brien, Conor | American Apparel and Footwear Association | Written | 2.3.A. Rule language. Total fluorine. 2.4.B. Rule language. De minimis threshold for total fluorine. 2.11.A. Rule language. Credible evidence. 2.12.A. Rule language. Exemptions and exemption process – Recycled content. |
| Parkhurst, Daniel | Toxic-Free Future | Written | 3.1. Toxic-Free Future petition |
| Parkhurst, Daniel | Toxic-Free Future | Written | 3.2. Toxic-Free Future multi-organization letter |
| Peele, Cheri | Toxic-Free Future | Written | 2.1.B. Rule language. Definitions – Apparel for extreme and extended use. 2.6.A. Rule language. Restrictions – Support. 2.6.B. Rule language. Restrictions – PFAS in cookware and kitchen supplies. 2.7.A. Rule language. Reporting requirements – Objections. 4.3.A. Miscellaneous. Authority to identify alternatives. |
| Peele, Cheri | Toxic-Free Future | Verbal | 2.6.A. Rule language. Restrictions – Support. 2.6.B. Rule language. Restrictions – PFAS in cookware and kitchen supplies. 2.7.A. Rule language. Reporting requirements – Objections. 4.3.A. Miscellaneous. Authority to identify alternatives. |
| Pollack, James | Outdoor Industry Association | Written | 4.9.A. Miscellaneous. Late submittal. |

| Commenter | Affiliation | Submittal method | Comment code and topic |
|------------------------------|--------------------------|------------------|---|
| Reising, Lisa | Self | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 1.6.A. Rulemaking process. Outreach. 4.1.G. Miscellaneous. Other products and chemicals – Biosolids. |
| Rendall-Jackson, Christopher | Farella Braun Martel LLP | Written | 2.1.H. Rule language. Definitions – Limit to listed products. 2.2.B. Rule language. Applicability – Limit to listed products. |
| Rusev Dawley, Amy | Self | Written | 1.1.A. Rulemaking process. General support. |
| Scott, Veronica | Self | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. |
| Slan, Teri | Self | Written | 1.1.A. Rulemaking process. General support. 1.1.B. Rulemaking process. PFAS concerns. 4.5.A. Miscellaneous. Chemical classes. |
| Trim, Heather | Zero Waste Washington | Written | 2.6.B. Rule language. Restrictions – PFAS in cookware and kitchen supplies. |
| Trim, Heather | Zero Waste Washington | Verbal | 2.6.B. Rule language. Restrictions – PFAS in cookware and kitchen supplies. |
| Young, Jim | Self | Written | 1.1.B. Rulemaking process. PFAS concerns. |

Commenter List 2: Toxic-Free Future petition

Toxic-Free Future submitted a petition signed by 203 individuals. The following people signed Toxic-Free Future's petition regarding the proposed rule. Some signers added additional comments to the petition, but the content of these comments did not differ substantially from the petition. These comments received a single response. See Ecology's response in [3.0 Joint Letters](#) and the comment letter in Appendix A.

| | | |
|--------------------|-------------------------|----------------------------|
| Abernathy, Gina | Carvlin, Katherine | Fantle, Dena |
| Ackerman, Laura | Chapman, Christine | Faust, Doug |
| Adams, Evelyn | Chase, Danielle | Felix, Kristin |
| Akinbami, Carolyn | Chen, Erin | Fetter, Sharon |
| Allen, Cynthia | Chin, Andrea | Fortman, Scott |
| Artman, Cara | Cho, AJ | Futrell, Sherrill |
| B, Shary | Ciancibelli, Allison | Gaither, Michelle |
| Bailey, Stephen | Coffey, Patricia | Gilley, Felisa |
| Bangs, Leigh | Cole, Victoria | Gold, Leslie |
| Christina, Bearer | Cooper, Laurie | Goldberg, Rich |
| Bendová, Maria | Cowans, Diana | Gosho, Cathleen |
| Benedict, Derek | Crane, Kimberly | Gray, Brian |
| Benham, Mary | Deal, Brandie | Grist, Joanna |
| Bergman, Steven | Dell, Ryan | Hanson, Mary |
| Berry, Dawn | Devlin, Felicity | Harrod, Mariah |
| Bescript, Linda | Dickinson, Amanda | Harty, Florence |
| Blackwood, Barbara | Donovan, Mary | Hasson, Art |
| Bolles, Barbara | Doronin, Irina | Heath, Elizabeth |
| Boren, Michelle | Duncan, Suzanne | Heisterkamp, Bernard |
| Boyce, Richard | Dunlevy, Leah | Heisterkamp, Wilhelmina |
| Brandes, Michael | Echo, Aurora | Henling, Daniel |
| Brown, Doug | Edmison, Sean | Hennessy, John |
| Brzezinski, Matt | Edwards, David | Herold, Ana |
| Burke, Sean | Elledge, Mike and Vicki | Hoover, Verrall |
| Cameron, Cami | Engle, I. | Horn, Diane |
| Carter, Mary E. | Engler, Pamela | Horwitz, Martin |
| Carter, Rhonda | Fabian, Dagmar | |

| | | |
|---------------------|--------------------|-------------------------------------|
| House, Rochelle | Lorenz, Lara | Ostle, Marjorie |
| Hoyopatubbi, Patti | Lound, Melissa | Palmieri, Nick |
| Hughes, Rich | Mace, Pat | Patten, Robin |
| Hull, Jennifer | Mack, Leandria | Peters, Thom |
| Hummingbird, Louise | Madden, Michael | Petersen, Mike |
| Hurd, Pamela | Magliola, Lawrence | Petersen, Art |
| Johnson, Lucy | Marraro, Robert | Phillips, Justin |
| Johnson, Camille | Martin, Jeanne | Platt, Amy |
| Jonas, Jayme | Masciel, Karissa | Pond, Olivia |
| Jordan, Dorothy | May, Lana | Radford, Lemoine |
| Juhl, Brandon | McCulley, M. | Riffe, Sheila |
| Kamionsky, Justine | McDevitt, Paul | Ripp, Jeanne |
| Kaplan, Sheryl | McGill, Jen | Risser, Mrs. Susan and Mr. Peter |
| Kaplan, Sheryl | McHugh, Heather | Robbins, Namaste |
| Kaplan, Sheryl | McMichael, Barbara | Robbins, Namaste |
| Keith, Jourdan | Mendoza, Andrea | Rokas, John |
| Kelsh, Bridget | Mendoza, Shelly | Rolland, Janna |
| Kent, Lauren | Merrill, Karen | Rosen, Marissa |
| Keyes, Jeannie | Miller, Oea | Rosen, Michael |
| Knoppers, Sherry | Milonas, Nikolaos | Rosenkotter, Barbara |
| Kostal, Kate | Misek, Jolie | Rosenthal, Andrew |
| Kreher, Leslie | Moon, Lauri | Roy, Debasri |
| Krislok, Evita | Mulcare, James | S., J. |
| Laiti, Jared | Murdock, Madison | Safaie, Noushin |
| Lambert, John | Nagyfy, Desiree | Samnick, Sarah |
| Lambros, Kathryn | Nam, S. | Scott, Amy |
| Landback, Chris | Natalini, Sarah | Scott, Jennifer |
| Lane, Laurie | Nightingale, Terry | Sedon, Douglas |
| Lang, Liana | Navan, Gloria | Shaw, Claudia |
| Lenihan, C | Novotny, Patricia | Sikes, Rosemary |
| Lindsay, Linda | O'Brien, Bridget | Skolnick, Katharine |
| Lipe, Hillary | Obrien, William | Species, Scott |
| Longyear, Sharon | Ofenloch, Lance | |

Stahre, Grace
Stefano, Lori
Stephens, Tanea
Sydnor, Giles
Tate, Tiffany
Taylor, Maria
Teed, Cornelia
Thiodet, Briana
Thomas, Shakayla
Thompson, John
Turrubiates, Mariana
Van Cleve, Margie
Villeneuve, Phyllis
Vonbartheld, Annika
Wang, Tracy
Weir, Joyce
Weis, Marie
Wilson, Linda
Ya, Nat
Yanik, Melodi
Yogev, Yonit
Younger, Leo
Zand, Shab

Commenter List 3. Toxic-Free Future multi-organization letter

Toxic-Free Future submitted a letter signed by the following 14 additional organizations. See Ecology's response in [3.0 Joint Letters](#) and the comment letter in Appendix A.

Afghan Health Initiative

Alphabet Alliance of Color

Earthjustice

Earth Ministry/Washington Interfaith Power & Light

Indian American Community Services

Lovie, John

Orca Network

Puget Soundkeeper Alliance

Pursue PFAS Free

Save Our Wild Salmon Coalition

Sierra Club, Washington State Chapter

Toxic-Free Future

Washington Conservation Action Education Fund

West Plains Water Coalition (Spokane)

Whale Scout

Organization of comment topics

Ecology would like to thank commenters for their interest in this rulemaking and for the thoughtful comments submitted. After carefully considering all comments and testimony received, we summarized written comments and hearing testimony for readability and conciseness and included a response. You can view the original written comments in Appendix A: Written Comments and in Ecology's [online comment tool](#).²⁸ You can view the testimonies from both hearings in Appendix B: Hearing Testimony (see [Appendices](#)). We also stored the written comments and hearing transcripts in the permanent rulemaking record and will share them upon request.

Many comments reference multiple topics, so we grouped similar comments, organized them by topic, and included a comment code.

Comment topics

- 1.0 Rulemaking process
 - 1.1 General support
 - 1.2 Regulatory determinations
 - 1.3 Preliminary Regulatory Analyses
 - 1.4 Other regulations
 - 1.5 Training
 - 1.6 Outreach
 - 1.7 Safer Products for Washington cycles
- 2.0 Rule language
 - 2.1 Definitions
 - 2.2 Applicability
 - 2.3 Total fluorine
 - 2.4 De minimis threshold for total fluorine
 - 2.5 Intentionally added
 - 2.6 Restrictions
 - 2.7 Reporting requirements
 - 2.8 Safer alternatives
 - 2.9 Dates and deadlines

²⁸ <https://hwtr.ecology.commentinput.com/comment/extra?id=UkVY4maCd>

- 2.10 Reporting loopholes
- 2.11 Credible evidence
- 2.12 Exemptions and exemption process
- 2.13 Confidential business information
- 2.14 Enforcement
- 3.0 Joint letters
 - 3.1 Toxic-Free Future petition
 - 3.2 Toxic-Free Future multi-organization letter
- 4.0 Miscellaneous
 - 4.1 Other products and chemicals
 - 4.2 Spokane aquifer
 - 4.3 Authority to identify alternatives
 - 4.4 Transparency
 - 4.5 Chemical classes
 - 4.6 California Cleaning Product Right to Know Act
 - 4.7 Coordinate with U.S. EPA
 - 4.8 Labels
 - 4.9 Late submittals

Summarized comments and Ecology responses

1.0 Rulemaking process

The following comments relate to the rulemaking process.

1.1 General support

The following comments expressed:

- General support for the proposed rule and the Safer Products for Washington effort (comment 1.1.A).
- Concerns about PFAS (comment 1.1.B).

Because the comments were similar, we wrote one summary and response for comments 1.1.A and 1.1.B.

Comment 1.1.A

Commenters

Anonymous, Anonymous

Archer, Sam

Burchell, Ken

Callahan, Kevin (BP Polymers LLC)

Carroll, Linda

Dalluge, Elisia

Dick, Frank (City of Vancouver)

Donovan, Jeff (City of Spokane)

Guro, Kamuron (King County Wastewater Treatment Division)

Hancock, John (West Plains Water Coalition)

Hart, Nathan (Seattle Public Utilities)

Jones, Ed

Koyamatsu, Kami

Maish, Dianna

Moffat, Lorna

Reising, Lisa

Rusev Dawley, Amy

Scott, Veronica

Slan, Teri

Comment 1.1.B

Commenters

Anonymous, Anonymous

Callahan, Kevin (BP Polymers LLC)

Carroll, Linda

Dalluge, Elisia

Dick, Frank (City of Vancouver)

Donovan, Jeff (City of Spokane)

Guroi, Kamuron (King County Wastewater Treatment Division)

Hancock, John (West Plains Water Coalition)

Hart, Nathan (Seattle Public Utilities)

Maish, Dianna

Moffat, Lorna

Reising, Lisa

Scott, Veroncia

Slan, Teri

Young, Jim

Summary of comments 1.1.A and 1.1.B

Comments support the proposed rule. Many commenters express concerns about PFAS and indicate the rule is needed to protect human health and the environment.

Response for comments 1.1.A and 1.1.B

Thank you for your comment. PFAS are a class of toxic chemicals that are used for various functions in consumer products, such as adding water resistance in apparel or to aid in soil or stain removal in cleaning products. Although those qualities have made them widely used in a range of products, many of these chemicals have also been shown to build up in people, animals, and the environment over time. They're often called "forever chemicals" because many don't completely break down in the environment.

People can be exposed to PFAS when they use products containing PFAS. Consumer products can also release PFAS into dust or the air. Many PFAS are linked to cancer as well as reproductive and developmental harm in humans. They're also linked to toxicity in fish and wildlife.

The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives. This rule update is the result of a partial cycle added by the Legislature in 2022 that only covered

products identified in our 2021 PFAS Chemical Action Plan. The rule (Chapter 173-337 WAC) implements our Safer Products for Washington program.

The adopted rule amendments will:

- Reduce the use of PFAS by restricting the manufacture, sale, and distribution of three new categories of consumer products in Washington State that contain intentionally added PFAS. These product categories include:
 - Apparel and accessories
 - Automotive washes
 - Cleaning products
- Increase product ingredient transparency by requiring manufacturers to report the intentional use of PFAS in nine new product categories:
 - Apparel intended for extreme and extended use
 - Footwear
 - Gear for recreation and travel
 - Automotive waxes
 - Cookware and kitchen supplies
 - Firefighting personal protective equipment (PPE)
 - Floor waxes and polishes
 - Hard surface sealers
 - Ski waxes

By restricting the use of PFAS, we help ensure that products sold and distributed in Washington are safer for people and the environment. Similarly, through reporting requirements, we increase transparency so consumers can make more informed decisions about the products they use every day.

The Safer Products for Washington program will continue work on additional priority consumer product categories containing PFAS (artificial turf and architectural paints) that were identified in the [Identification of Priority Products: Safer Products for Washington Cycle 2 Implementation Phase 2 report](#) to the Legislature.²⁹ We will also continue work on priority consumer product categories containing PFAS from this cycle: cookware and kitchen supplies, firefighting personal protective equipment (PPE), floor waxes and polishes, and hard surface sealers.

1.2 Regulatory determinations

The following comment relates to regulatory determinations.

²⁹ <https://apps.ecology.wa.gov/publications/SummaryPages/2504030.html>

Comment 1.2.A

Commenter

Archer, Sam

Summary of comment

Commenter asks how restricted categories were determined.

Response

Thank you for your comment. The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives. In typical cycles of Safer Products, we follow a transparent, public process to identify priority products. However, this rule update is the result of a partial cycle added by the Legislature in 2022 that only covered products identified in our 2021 PFAS Chemical Action Plan.

The law only authorizes Ecology to restrict a chemical in a product when safer alternatives are feasible and available. We restricted PFAS in only three of the product categories because we identified safer, feasible, and available alternatives in those product categories. In Cycle 2, we are continuing work to find alternatives to PFAS in cookware and kitchen supplies, firefighting PPE, floor waxes and polishes, and hard surface sealers.

1.3 Preliminary Regulatory Analyses

The following comments relate to the Preliminary Regulatory Analyses for the proposed rule.

Comment 1.3.A

Commenter

Bennett, Steve (Household and Commercial Products Association)

Summary of comment

Commenter appreciates that the PRA estimates a smaller number of PFAS-containing cleaning products on the market than the regulatory determinations report to the Legislature included. Commenter estimates that the number of cleaning products within the scope of this rule falls at the lower end of the estimates. They expect the restrictions on cleaning products will have a minimal impact on the Washington marketplace.

Response

Thank you for your comment providing information about the cleaning products market. We revised the final regulatory analyses to note that the proposed restrictions on cleaning products will likely have a minimal impact on the Washington market.

Comment 1.3.B

Commenter

Leatherman, Crystal (Washington Retail Association)

Summary of comment

Referring to the Preliminary Regulatory Analyses, the comment notes that the definition of “small manufacturer” appears to vary between state and federal levels. They recommend aligning the rule with the U.S. Environmental Protection Agency’s (U.S. EPA) reporting criteria, tailored to annual production and PFAS quantities within Washington State.

Response

Thank you for your comment on the definition of small manufacturer. In regulations for other product categories (for example, electric and electronic products), we phased in restrictions based on manufacturer size. We did not take a phased in approach for the PFAS regulations in this rule and therefore did not revisit the definition of small manufacturer.

1.4 Other regulations

The following comments relate to other state and federal consumer products regulations.

Comment 1.4.A

Commenter

Dalluge, Elisia

Summary of comment

Comment asks what other states have banned and regulated in holistic care.

Response

Thank you for your comment. Ecology examined applicable federal and state laws and rules related to toxic chemicals in consumer products. Where possible, the requirements in the amended rule align with similar requirements of other authorities including other United States (U.S.) states and other nations. For more information about existing regulations and voluntary actions to reduce PFAS in relevant consumer products, see Appendix B of the final [Regulatory Determinations Report Cycle 1.5 Implementation Phase 3 to the Legislature](#), published in May 2024.³⁰

Comment 1.4.B

Commenter

Godlewski, Peter (Association of Washington Business)

³⁰ <https://apps.ecology.wa.gov/publications/SummaryPages/2404023.html>

Summary of comment

Comment requests that Ecology align Washington's compliance approach more closely with other state and federal PFAS frameworks to promote regulatory consistency and reduce industry confusion.

Response

Thank you for your comment. We align with other regulations when possible but must work within the structure of the authorizing statute (Chapter 70A.350 RCW). We examined applicable federal and state laws and rules related to toxic chemicals in consumer products. Where possible, the requirements in the proposed rule align with similar requirements of other authorities including other U.S. states and other nations.

1.5 Training

The following comments relate to training requests.

Comment 1.5.A

Commenters

Attilio, Fran (Cookware and Bakeware Alliance)

Beine, David (Regal Ware)

Beine, David (SynergyOps)

Bennett, Steve (Household and Commercial Products Association)

Summary of comments

Comments encourage Ecology to develop guidance for compliance with the rule. Some commenters request a training webinar for reporting requirements.

Response

Thank you for your comment. In implementing the rule adopted in 2023, we held webinars and developed frequently asked questions tailored to the regulated community. We intend to continue these outreach efforts.

1.6 Outreach

The following comments relate to outreach and collaboration.

Comment 1.6.A

Commenters

Moffat, Lorna

Reising, Lisa

Summary of comment

Comments request that Ecology provide educational outreach on the hazards of chemicals and ways to avoid them.

Response

Thank you for your comment.

While not directly related to this rule, Ecology staff plan to hold focus groups in 2026 with different occupational groups where we may discuss the harmful effects posed by PFAS, as well as other priority chemicals. The findings from these focus groups will help inform alternative assessments as part of Safer Products for Washington's Cycle 2 work.

Additional outreach and engagement between now and 2027 may include community events where members of the public of different occupations may participate and learn more about exposures to priority consumer products containing PFAS, as well as other toxic chemicals.

These tactics will allow us to reach various audiences, increase awareness of the program, and create opportunities for people to get involved. You can subscribe to our [email list](#) to stay informed and learn more.³¹

Comment 1.6.B

Commenter

Gutiérrez, Carlos (Consumer Healthcare Products Association)

Summary of comment

Comment encourages Ecology to collaborate with industry stakeholders to develop more precise analytical methods to distinguish between intentionally added PFAS and naturally-occurring or trace fluorine compounds.

Response

Thank you for your comment. The rule doesn't require use of a specific analytical method because we want to offer flexibility to regulated entities. Companies can rebut the presumption that total fluorine detected above 50 ppm indicates intentionally added PFAS by providing evidence the fluorine is from a source other than PFAS, such as inorganic fluorine. Regulated entities can demonstrate this through supply chain transparency, such as documentation from suppliers, or through analytical testing. By allowing multiple ways rebut the presumption of intentional addition of PFAS and demonstrate compliance, regulated entities can provide information they may already have. This reduces the burden associated with requiring evidence from a single specific analytical method.

1.7 Safer Products for Washington cycles

The following comments relate to Safer Products for Washington Program cycles.

³¹ <https://public.govdelivery.com/accounts/WAECY/signup/40160>

Comment 1.7.A

Commenters

Gurol, Kamuron (King County Wastewater Treatment Division)

Hart, Nathan (Seattle Public Utilities)

Summary of comment

Comments encourage Ecology to consider accelerating timelines for future restrictions and expansion of restricted product categories, applying a higher standard for “essential use exemptions,” and moving as quickly as possible to limit the distribution and use of unnecessary toxic chemicals.

Response

Thank you for your comment. The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives.

In Phase 1, we identify priority chemicals and classes of chemicals to focus on. In Phase 2, we identify priority products that contain priority chemicals. This can include priority chemicals from Phase 1 but also any priority chemicals previously identified by the program. Then, in Phase 3, we determine regulatory actions for those priority products and chemicals. When making regulatory determinations, we can choose from three options:

1. We can restrict use of a priority chemical in a product if we identify safer feasible and available alternatives, or,
2. Require manufacturers to report when they use a priority chemical in a product, or,
3. Choose to take no action.

In Phase 4, we adopt the regulatory actions from Phase 3 in rule. Once we complete Phase 4, we then go back to Phase 1 and the five-year cycle repeats.

2.0 Rule language

The following comments relate to the proposed rule.

2.1 Definitions

The following comments relate to definitions in the proposed rule.

Comment 2.1.A

Commenter

Dick, Frank (City of Vancouver)

Summary of comment

Comment requests that Ecology expand the definition of extreme and extended use to “gear for extreme and extended use” to ensure reporting requirements would also apply to gear.

Response

Thank you for your comment. The commenter asked us to consider adding gear to the reporting requirement for extreme and extended use outdoor apparel. The rule includes a reporting requirement for gear for recreation and travel in section 110. Gear for recreation and travel includes, but is not limited to, backpacks, bags, climbing ropes, luggage, panniers, sleeping bags, sleeping pads, tents, and totes.

Comment 2.1.B

Commenter

Peele, Cheri (Toxic-Free Future)

Summary of comment

Comment expressed concerns about the definition of extreme and extended use. They recommended revisions to the definition to combine intended performance and intended use.

Response

Thank you for your comment. In response to formal comment, we revised the definition of extreme and extended use in the amended rule to include intended use.

Comment 2.1.C

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Under the definition of extreme and extended use, commenter would like clarification of what is meant by “extended periods of time.”

Response

Thank you for your comment. The comments referred to previous comments on the preliminary draft rule. Those comments asked for greater clarification on the definition of “extreme and extended use products.” In response to formal comment, we revised the definition of apparel intended for extreme and extended use to add specificity on intended performance and use.

Comment 2.1.D

Commenter

Gutiérrez, Carlos (Consumer Healthcare Products Association)

Summary of comment

Comment expresses concern about the categorization of reusable menstrual underwear and reusable incontinence products as apparel and considers these products as Food and Drug Administration (FDA) regulated medical devices. They request explicit exemption of all FDA-regulated medical devices, including reusable menstrual underwear and reusable incontinence products from the definition of apparel and accessories in the rule.

Response

Thank you for your comment. We included reusable underwear for incontinence and reusable period underwear in the apparel and accessories category because:

- We found that safer alternatives are feasible and available.
- There is the potential for exposure to PFAS from these products.

Menstrual underwear is not listed as a medical device in Title 21 CFR, subchapter H. Although menstrual pads and protective garments for incontinence are Class 1 medical devices, they are not subject to premanufacture notification,³² and FDA does not have standards for safety of ingredients. This restriction is important for protecting sensitive populations, including people of childbearing age.

Comment 2.1.E

Commenter

Keane, John (Association of Home Appliance Manufacturers)

Summary of comment

Comment expresses concerns with the phrase “included but not limited to” because it could lead to the interpretation that any food contact surface is included, regardless of whether it is used to cook or prepare food.

³² The 510(k) premanufacture notification is a regulatory process used by medical device manufacturers to notify the U.S. Food and Drug Administration (U.S. FDA) of their intent to market a new device.

Response

Thank you for your comment. In response to formal comment, we did not remove “but not limited to” to ensure no relevant products were unintentionally excluded. However, we did revise the definition of cookware and kitchen supplies to clarify that they are intended to contact food or beverages. We also excluded major appliances, such as refrigerators and stoves, from the definition.

Comment 2.1.F

Commenter

Callahan, Kevin (BP Polymers LLC)

Summary of comment

Comment notes that the current definition of intentionally added does not include fluorination and the chemical processes that generate PFAS.

Response

Thank you for your comment. We did not revise the definition of intentionally added during this rulemaking, but we note that the definition does include chemicals used in the manufacturing process that are present in the product distributed and sold in Washington. We have not evaluated PFAS from fluorination processes used for packaging in this cycle of the program. Some of the PFAS uses you identified could be considered intentionally added in the future without a change in definition, provided they are relevant to priority product categories and considered in our evaluation of safer, feasible, and available alternatives.

Comment 2.1.G

Commenter

Bennett, Steve (Household and Consumer Products Association)

Summary of comment

Comment expresses concern with the phrase “or in the manufacturing of the product” in the definition of intentionally added.

Response

Thank you for your comment. The definition of “intentionally added” doesn’t include chemicals used in the manufacturing process that are not found in the product distributed and sold in Washington. In the definition, “or in the manufacturing of the product” refers to chemicals like bisphenols reacted to form epoxies, which ultimately serve a function in the product. Because we think the rule is sufficiently clear and enforceable, we didn’t change the language.

Comment 2.1.H

Commenter

Rendall-Jackson, Christopher (Farella Braun Martel LLP)

Summary of comment

Comment requests that Ecology revise the definitions of apparel and accessories, cookware and kitchen supplies, and gear for recreation and travel to include only the items listed in the definitions.

Response

Thank you for your comment. In response to formal comment, we did not change the definitions of these terms to remove “including but not limited to” and replace this phrase with “include only the following items” to ensure no relevant products were unintentionally excluded. We did revise the definitions of cookware and kitchen supplies and gear for recreation and travel for clarity.

2.2 Applicability

The following comments relate to applicability of the proposed rule.

Comment 2.2.A

Commenter

Dick, Frank (City of Vancouver)

Summary of comment

Comment requests that Ecology include commercial products and monitor those products sold to distributors and direct service providers.

Response

Thank you for your comment. Chapter 70A.350 RCW defines consumer products as “any item, including any component parts and packaging, sold for residential or commercial use.” Because this definition already captures commercial products, we didn’t modify the rule.

Comment 2.2.B

Commenter

Rendall-Jackson, Christopher (Farella Braun Martel LLP)

Summary of comment

Commenter requested that Ecology amend the applicability section for footwear and ski waxes to include only the items listed in the definitions.

Response

Thank you for your comment. In response to formal comment, we did not change the applicability sections for these products to remove “including but not limited to” and replace this phrase with “include only the following items” to ensure no relevant products were unintentionally excluded.

Comment 2.2.C

Commenter

Keane, John (Association of Home Appliance Manufacturers)

Summary of comment

Commenter requested Ecology clarify the definition of cleaning products to apply exclusively to chemically-formulated substances.

Response

Thank you for your comment. In response to formal comment, we revised the applicability section for this product category.

Comment 2.2.D

Commenters

Bennett, Steve (Household and Commercial Products Association)

Finarelli, Christopher (Household and Commercial Products Association)

Summary of comments

Commenters express concerns about the inclusion of disinfectants in the scope for cleaning products. Commenters state that disinfectants, and more broadly, antimicrobial pesticides, are already regulated by the [U.S. EPA under the Federal Insecticide, Fungicide and Rodenticide Act \(FIFRA\)](#).³³ Commenters express concern that the definition for cleaning products in the proposed rule includes these U.S. EPA-regulated products and is inconsistent with exemptions in similar definitions in other states. Commenters note that all-purpose cleaners with pesticidal claims are subject to FIFRA regulation. They also note that the time needed to meet any U.S. EPA reformulation registration requirements would exceed the proposed restriction timelines. They note that Ecology could benefit from reviewing definitions in the U.S. EPA's National Volatile Organic Compound Emission Standards for Consumer Products and the California Air Resources Board General Consumer Products Regulations. Commenters recommend we remove references to disinfectants from the cleaning products category definition or clearly indicate what products are included in the scope of the regulation.

Response

Thank you for your comment. In response to formal comment, we revised the applicability of cleaning products to clarify the:

- Applicability of this section to formulated cleaning products intended for residential, commercial, and institutional uses.
- Cleaning products with disinfectants are included in this consumer product category.

³³ <https://www.epa.gov/laws-regulations/summary-federal-insecticide-fungicide-and-rodenticide-act>

- Clarify the meaning of industrial.
- Exclude pesticidal products not marketed as cleaning products.

Comment 2.2.E

Commenter

Bennett, Steve (Household and Commercial Products Association)

Summary of comment

Commenter requests clarification on the exclusion of industrial cleaning products in the rule. They also note there is no indication of when or whether these products will be addressed.

Response

Thank you for your comment. This product category doesn't include industrial cleaning products because PFAS serve unique functions in these types of products. We are not reviewing industrial cleaning products in Cycle 2 of Safer Products for Washington, but we may in future cycles. If we review them in the future, we need to identify them as a priority product in Phase 2 of Cycle 3 or a later cycle. Stakeholders would then have opportunities to work with us through the Safer Products process.

Comment 2.2.F

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Commenter would like Ecology to include kitchen and feeding utensils, including disposable utensils in this product category.

Response

Thank you for your comment. The definition doesn't include disposable items because we wanted to generally align with other state regulations.

Comment 2.2.G

Commenter

Bennett, Steve (Household and Commercial Products Association)

Summary of comment

Commenter supports the exclusion of PFAS used as a propellant in the scope of the rule.

Response

Thank you for your comment.

Comment 2.2.H

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Commenter requests Ecology include an “undergarments and hygiene products” category that includes reusable and disposable products.

Response

Thank you for your comment. In our alternatives assessment, we found alternatives for reusable textile products, but we did not find alternatives to disposable products. For these reasons, the rule includes reusable undergarments but doesn't include disposable menstrual or incontinence products.

Comment 2.2.I

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Commenter suggests adding an electronic devices and accessories category, especially for wearable devices.

Response

Thank you for your comment. This rule update is the result of a partial cycle added by the Legislature in 2022 that only covered products identified in our 2021 PFAS Chemical Action Plan.

We included textile components of accessories (for example, watchbands) in the apparel and accessories category. We can't adopt requirements for PFAS in new potential priority product categories in this rulemaking, including electronic devices and accessories. However, we can consider your suggestion in a future cycle.

Comment 2.2.J

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Commenter requested the PPE for occupations other than firefighting are included in the PPE product category.

Response

Thank you for your comment. The apparel and accessories product category includes PPE as long as it is not required to protect the wearer from chemical or biological hazards and does not meet the definition of firefighting PPE. As an example, coveralls and chef's aprons are included in the apparel and accessories category, but surgical gloves are not covered, as they are intended to protect the user from biological hazards.

2.3 Total fluorine

The following comments relate to the presumption that the detection of total fluorine indicates the intentional addition of PFAS.

Comment 2.3.A

Commenters

Attilio, Fran (Cookware and Bakeware Alliance)

Beine, David (Regal Ware)

Beine, David (SynergyOps)

Bennett, Steve (Household and Commercial Products Association)

Godlewski, Peter (Association of Washington Business)

Gutiérrez, Carlos (Consumer Healthcare Products Association)

O'Brien, Conor (American Apparel and Footwear Association)

Summary of comments

Commenters express concerns regarding Ecology's use of total fluorine testing to indicate the intentional addition of PFAS. They claim the presumption lacks scientific foundation and will create substantial regulatory and economic burdens on industry and Ecology. They have concerns about the indicator generating false positives from products containing naturally occurring fluorine compounds and trace impurities. Commenters state this increases the administrative costs to Ecology and burdens manufacturers with effort to rebut the presumption.

Some commenters also provided supporting information about total fluorine and total organic fluorine testing and the differences between PFAS and fluorine. Other commenters note that while total organic fluorine testing would be preferred over total fluorine testing, it also has limitations and should not be used as conclusive evidence of intentional PFAS use.

Response

Thank you for your comment. Total organic fluorine testing doesn't accurately capture all organic fluorine; organic fluorine from polymers is often underestimated in total organic fluorine testing.³⁴ Using total fluorine testing ensures we don't miss non-compliant products. However, as some commenters have pointed out, by using total fluorine testing, we may capture products that have inorganic fluorine present from pigments or plastic manufacturing processes. In these cases, the manufacturer may rebut our presumption by submitting information to Ecology such as the use of any fluorinated ingredients or inorganic fluorine test results.

This approach aligns with the European Union's recently proposed PFAS restriction. Under the European Union proposal, if total fluorine is detected above 50 ppm, the

³⁴ Shultes et al. 2019, <https://pubs.acs.org/doi/full/10.1021/acs.estlett.8b00700>

manufacturer must provide proof for the fluorine measured as either PFAS or non-PFAS.³⁵

The restrictions in the amended rule apply to intentionally added PFAS, not total fluorine. Additionally, this rule requires manufacturers to report intentionally added PFAS. It doesn't require manufacturers to measure or report total fluorine concentrations. Manufacturers can choose to report intentionally added PFAS in concentration ranges based on supply chain transparency or through product testing.

The use of inorganic fluorides, such as fluorophlogopite, is a good example of why manufacturers may rebut our presumption. In this case, if Ecology detected total fluorine above 50 ppm and reached out to the company, they could either share inorganic fluorine results or disclose the use of fluorophlogopite when rebutting our presumption. Ecology would consider this information when determining next steps.

In short, measuring total organic fluorine limits us to a small portion of the PFAS used in products, and may miss some PFAS, such as in polymers. Total fluorine testing is more comprehensive and a good first step in our compliance process. It is not the final step in the compliance process, nor is total fluorine by itself restricted. For these reasons, we didn't change the presumption.

2.4 De minimis threshold for total fluorine

The following comments relate to inclusion of a de minimis threshold for total fluorine to indicate the intentional addition of PFAS. Because the comments were similar, we wrote one response for comments 2.4.A through 2.4.D.

Comment 2.4.A

Commenter

Gutiérrez, Carlos (Consumer Healthcare Products Association)

Summary of comment

Commenter requests that if Ecology maintains total fluorine testing as the detection method, that a de minimis threshold of 100 ppm be established to eliminate reporting and rebuttal requirements for trace-level fluorine content unrelated to intentional PFAS use.

Comment 2.4.B

Commenter

O'Brien, Conor (American Apparel and Footwear Association)

Summary of comment

Commenter recommends inclusion of a de minimis threshold of 100 ppm below which the presence of total organic fluorine should not be presumed to be intentionally added.

³⁵ European Chemicals Agency 2023, <https://echa.europa.eu/documents/10162/1c480180-ece9-1bdd-1eb8-0f3f8e7c0c49> (page 4)

They suggest that Ecology set a de minimis threshold of 100 ppm for total organic fluorine, consistent with existing laws and standards.

Comment 2.4.C

Commenter

Godlewski, Peter (Association of Washington Business)

Summary of comment

Commenter asks Ecology to consider establishing a screening threshold or decision tree to help distinguish background levels from meaningful PFAS content and only trigger follow-up targeted testing if the threshold is exceeded.

Comment 2.4.D

Commenter

Bennett, Steve (Household and Commercial Products Association)

Summary of comment

Commenter expresses concern that the rule lacks a de minimis threshold for total fluorine, which would trigger Ecology's presumption of intentionally added PFAS and leave manufacturers to rebut this presumption. They suggest that Ecology set a de minimis threshold of 100 ppm for total organic fluorine, consistent with the [Children's Safe Products – Reporting Rule \(Chapter 173-334 WAC\)](#)³⁶ de minimis level for contaminants.

Response for comments 2.4.A through 2.4.D

Thank you for your comment. In response to formal comments, we adopted a de minimis threshold of 50 ppm total fluorine in the rebuttable presumption for the 12 new product categories. This approach aligns with the European Union's proposed PFAS restriction.

Based on our analyses, the de minimis threshold will capture the intentional uses of PFAS in product categories regulated in Cycle 1.5. If total fluorine is detected above 50 ppm, we will presume PFAS was intentionally added. If total fluorine is detected below 50 ppm, we will presume it isn't the result of intentionally added PFAS.

We appreciate the suggestion of a decision tree to help manufacturers learn more about how we will use total fluorine in our compliance strategy. We will consider this suggestion as we build resources to support compliance.

2.5 Intentionally added

The following comments relate to our focus on intentionally added PFAS.

³⁶ <https://app.leg.wa.gov/wac/default.aspx?cite=173-334>

Comment 2.5.A

Commenters

Archer, Sam

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comments

Commenters do not recommend the use of “intentionally added PFAS” and would like Ecology to consider all sources of PFAS as intentionally added.

Response

Thank you for your comment. We appreciate your suggestion to restrict all PFAS instead of restricting intentionally added PFAS. We believe that focusing on intentional addition of PFAS is currently the best approach to reducing PFAS use and exposure.

2.6 Restrictions

The following comments relate to product restrictions in the proposed rule.

Comment 2.6.A

Commenters

Byrnes, Katie (Washington Conservation Action Education Fund)

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Peele, Cheri (Toxic-Free Future)

Summary of comments

Commenters support restrictions on PFAS in cleaning products, automotive washes, and apparel and accessories.

Response

Thank you for your comments.

Comment 2.6.B

Commenters

Byrnes, Katie (Washington Conservation Action Education Fund)

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Peele, Cheri (Toxic-Free Future)

Trim, Heather (Zero Waste Washington)

Summary of comments

Commenters acknowledge that Ecology cannot restrict chemicals in product categories unless safer, feasible, and available alternatives are identified. However, they believe safer solutions for cookware, including cast iron and stainless steel, are available. They note that other states are moving to restrict PFAS in this product category and that

Ecology did not evaluate any alternatives in this product category. They urge Ecology to implement a restriction on PFAS in cookware and kitchen supplies instead of a reporting requirement. One commenter noted they are currently holding product swap out events where the public can swap old cookware for safer options.

Response

Thank you for your comment. The law only authorizes Ecology to restrict a chemical in a product when safer alternatives are feasible and available. We restricted PFAS in only three of the product categories because we identified safer, feasible, and available alternatives in those product categories. In Cycle 2, we are continuing work to find alternatives to PFAS in cookware and kitchen supplies, firefighting PPE, floor waxes and polishes, and hard surface sealers.

Comment 2.6.C

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Commenter requests that Ecology restrict recycled product content containing PFAS from use in products.

Response

Thank you for your comment. We did not restrict PFAS from recycled products. As more PFAS-free textiles enter the recycling stream, clothing made using recycled content will contain less PFAS. Restricting PFAS in recycled clothing would create a barrier to recycling. But using safer chemicals upstream will allow for safer use of recycled materials.

Comment 2.6.D

Commenter

Leatherman, Crystal (Washington Retail Association)

Summary of comment

Commenter requests that Ecology not restrict PFAS in apparel intended for extreme and extended use starting in 2027 and that Ecology exempt “currently unavoidable uses” from the definition of this product category.

Response

Thank you for your comment. The amended rule requires manufacturers to report when apparel intended for extreme and extended use contains intentionally added PFAS. The amended rule doesn’t restrict the manufacture, sale, or distribution of apparel intended for extreme and extended use containing intentionally added PFAS.

2.7 Reporting requirements

The following comments relate to reporting requirements in the proposed rule. Because comments 2.7.B and 2.7.C were similar, we wrote one response for these comments.

Comment 2.7.A

Commenters

Byrnes, Katie (Washington Conservation Action Education Fund)

Peele, Cheri (Toxic-Free Future)

Summary of comments

Commenter supports restrictions on intentional use of PFAS in apparel and accessories, automotive washes, and cleaning products. However, they do not agree that the reporting requirements for the nine other product categories will protect human health and the environment. One commenter states that the new reporting requirements fall short of legislative intent, especially for cookware and kitchen supplies.

Response

Thank you for your comment. The law only authorizes Ecology to restrict a chemical in a product when safer alternatives are feasible and available. We restricted PFAS in only three of the product categories because we identified safer, feasible, and available alternatives in those product categories. In Cycle 2, we are continuing work to find alternatives to PFAS in cookware and kitchen supplies, firefighting PPE, floor waxes and polishes, and hard surface sealers.

Comment 2.7.B

Commenters

Attilio, Fran (Cookware and Bakeware Alliance)

Beine, David (Regal Ware)

Beine, David (SynergyOps)

Summary of comments

Comments request that Ecology harmonize PFAS reporting with existing Canadian requirements to reduce costs and ensure consistent information across jurisdictions. They state that reporting programs in the United States, including the U.S. EPA and various states, do not have consistent reporting requirements.

Comment 2.7.C

Commenter

Keane, John (Association of Home Appliance Manufacturers)

Summary of comment

For cookware and kitchen supplies, commenter notes various state requirements around PFAS labeling and reporting, as well as U.S. EPA and Canadian reporting requirements. They request that Ecology harmonize with federal requirements to the greatest extent possible to reduce costs and ensure consistent information across all jurisdictions.

Response to comments 2.7.B and 2.7.C

Thank you for your comment. Since 2012, Ecology has been requiring manufacturers to report chemicals in some regulated products sold or manufactured in Washington State. We use the [High Priority Chemicals Data System](#),³⁷ operated collectively with Oregon and Vermont. This database currently accepts notifications from manufacturers about PFAS and other chemicals. Initial reporting under Safer Products for Washington was due January 31, 2025. U.S. EPA reporting requirements could change significantly in the future and updates have been delayed multiple times. We will continue to require that manufacturers use the High Priority Chemicals Data System to comply with reporting requirements in the rule.

Comment 2.7.D

Commenter

Leatherman, Crystal (Washington Retail Association)

Summary of comment

Commenter expresses concerns about a 50 ppm threshold for reporting requirements and would like a higher threshold or phased compliance based on product category and volume.

Response

Thank you for your comment. Manufacturers must submit a notification to Ecology when a priority consumer product with a reporting requirement contains an intentionally added priority chemical. Total fluorine is not subject to reporting requirements. In response to formal comments, we adopted a de minimis threshold of 50 ppm total fluorine in the rebuttable presumption for the 12 new product categories. This approach aligns with the European Union's proposed PFAS restriction. Based on our analyses, the de minimis threshold will capture the intentional uses of PFAS in product categories regulated in Cycle 1.5.

The requirements in the rule focus on the date of manufacture. Therefore, we did not include a phased approach based on product category and volume. The rule requires manufacturers to report intentionally added PFAS in concentration ranges based on supply chain transparency or through product testing. Manufacturers are responsible for identifying PFAS intentionally added to their products at any point in the manufacturing process, including PFAS added by suppliers.

2.8 Safer alternatives

The following comments relate to safer alternatives.

Comment 2.8.A

Commenter

Byrnes, Katie (Washington Conservation Action Education Fund)

³⁷ <https://www.theic2.org/hpcds/>

Summary of comment

Commenter states that PFAS-free or safer alternatives exist for cookware and kitchen supplies and ski waxes. Commenter notes that France has banned PFAS in ski wax beginning January 1, 2026, and a ban is already in place by the International Ski and Snowboard Federation. They urge Ecology to determine if the PFAS-free alternatives on the market are safer alternatives.

Response

Thank you for your comment. We are continuing work to find alternatives to PFAS in cookware and kitchen supplies, firefighting PPE, floor waxes and polishes, and hard surface sealers, but to date, we have not found safer, feasible, and available alternatives. Under our state law it is not sufficient to find products that do not contain PFAS. This means we can't restrict PFAS in these product categories at this time.

In response to your comment on ski skins, we found safer alternatives to PFAS for ski skins. However, ski skins don't meet all the performance needs of ski waxes broadly, so we didn't restrict PFAS in ski waxes.

2.9 Dates and deadlines

The following comments relate to dates and deadlines in the proposed rule.

Comment 2.9.A

Commenter

Keane, John (Association of Home Appliance Manufacturers)

Summary of comment

Commenter states the January 31, 2027, reporting deadline is feasible, and many manufacturers will likely have already completed U.S. EPA and Minnesota State reporting for PFAS in products by that date.

Response

Thank you for your comment.

Comment 2.9.B

Commenter

Bennett, Steve (Household and Commercial Products Association)

Summary of comment

Commenter requests that Ecology include the date of manufacture in reporting requirements.

Response

Thank you for your comment. The rule includes a date of manufacture for **new** product categories with reporting requirements and restrictions.

Comment 2.9.C

Commenter

Bennett, Steve (Household and Commercial Products Association)

Summary of comment

Commenter agrees with the compliance timelines in the proposed rule, provided that the date of manufacture applies to both restrictions and reporting requirements, and if disinfectants are not included in the scope of the regulations. If disinfectants are included in the scope of the rule, commenter requests that Ecology provide additional time for reformulation and U.S. EPA regulatory approval.

Response

Thank you for your comment. In response to formal comment, we excluded pesticidal products not marketed as cleaning products. Additionally, WAC 173-337-020 explains the process for requesting exemptions. If a cleaning product containing PFAS can't meet the compliance deadline due to unique circumstances, manufacturers may submit a temporary exemption request.

Comment 2.9.D

Commenter

Leatherman, Crystal (Washington Retail Association)

Summary of comment

Commenter requests a grace period for inadvertent noncompliance with the rule.

Response

Thank you for your comment. The amended rule restricts products based on the date of manufacture. This should help retailers manage existing stock without having to catalog or remove products from shelves. The compliance dates in rule provide manufacturers and retailers sufficient time to procure compliant products. For these reasons, we didn't include a grace period in the rule.

Comment 2.9.E

Commenter

Dalluge, Elisia

Summary of comment

Commenter requests that enforcement of the adopted rule begin on January 1, 2026, and provides suggested alternative enforcement dates.

Response

Thank you for your comment. Chapter 70A.350 RCW states that restrictions can't take effect sooner than 365 days after the adoption of a rule. Further, the effective dates set a balance between maintaining Washington product availability and supporting the move to safer alternatives. Manufacturers need time to make changes in their

processes and supply chains to deliver safer products to Washington. Without this time, sellers may have to remove products from shelves, which may limit consumer's options. The effective dates in rule balance progress with maintaining product availability. For these reasons, we didn't change the compliance schedule.

Comment 2.9.F

Commenter

Leatherman, Crystal (Washington Retail Association)

Summary of comment

Commenter asks Ecology to clarify if initial reporting of cookware and kitchen supplies would cover the period from January 1, 2026, through December 31, 2026, and if the report would be due by January 31, 2027. They also note that this timeline is reasonable.

Response

Thank you for your comment. The rule requires manufacturers to start tracking regulated products on January 1, 2026. Manufacturers must submit their annual notification to Ecology by January 31, 2027.

2.10 Reporting loopholes

The following comment relates to potential reporting loopholes.

Comment 2.10.A

Commenter

Archer, Sam

Summary of comment

Commenter expressed concern that overly prescriptive product categories could result in reporting loopholes and cited aftermarket water-resistant treatment as an example.

Response

Thank you for your comment. To support compliance, the rule must clearly define product categories. We balance these clear descriptions with the inclusion of language, such as, "including but not limited to" to minimize the potential for "loopholes." In response to the example you cited regarding spray-on water treatment, Washington restricted the use of PFAS in aftermarket stain and water-resistant treatments beginning January 1, 2025.

2.11 Credible evidence

The following comments relate to credible evidence referenced in the proposed rule.

Comment 2.11.A

Commenters

Godlewski, Peter (Association of Washington Business)

Bennett, Steve (Household and Commercial Products Association)

O'Brien, Conor (American Apparel and Footwear Association)

Summary of comments

Commenters recommend that Ecology develop clear guidance on the “credible evidence” required to rebut the presumption of intentionally added PFAS. One commenter is concerned that credible evidence was not defined in the proposed rule and would like to see the definition included in the adopted rule.

Response

We have not defined what credible evidence may be used to rebut our presumptions. We may offer additional guidance through compliance support documents as restriction deadlines approach. One reason we did not define credible evidence in the amended rule is to allow companies the flexibility to leverage existing compliance strategies and best practices. By maintaining flexibility in what relevant sources of information manufacturers may submit, manufacturers may rely on methods they already use to establish compliance across the supply chain.

For example, the Apparel and Footwear International Restricted Substance List Management Group (AFIRM) developed [guidance for phasing PFAS out of products](https://afirm-group.com/wp-content/uploads/2023/09/AFIRM_Phaseout_PFAS_2023_0831.pdf).³⁸ Regulated entities could use the practices in AFIRM’s guidance to document a manufacturer’s move away from PFAS and to serve as credible evidence if Ecology detects total fluorine in their product.

2.12 Exemptions and exemption process

The following comments relate to exemptions and the exemption process. Because comments 2.12.A and 2.12.B were similar, we wrote one response for these comments.

Comment 2.12.A

Commenter

O'Brien, Conor (American Apparel and Footwear Association)

Summary of comment

Commenter requests that the rule exempt products made with at least 50 percent recycled content, to support textile recycling systems.

Comment 2.12.B

Commenter

Godlewski, Peter (Association of Washington Business)

³⁸ https://afirm-group.com/wp-content/uploads/2023/09/AFIRM_Phaseout_PFAS_2023_0831.pdf

Summary of comment

Commenter asks for clarification about the treatment of apparel made with recycled materials.

Response for comments 2.12.A and 2.12.B

Thank you for your comment. The definition of intentionally added specifies that those chemicals present in recycled materials are not considered intentionally added priority chemicals and therefore are not subject to restrictions or reporting requirements.

Comment 2.12.C

Commenter

Leatherman, Crystal (Washington Retail Association)

Summary of comment

Commenter requests that Ecology includes language exempting federally preempted products from the requirements.

Response

Thank you for your comment. There are no current federal preemptions with the product categories in this rule. If federal regulations preempt any restrictions in the rule, manufacturers must comply with the reporting requirement instead of the restriction. See section 040 in the rule (Chapter 173-337 WAC).

Comment 2.12.D

Commenters

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Hart, Nathan (Seattle Public Utilities)

Summary of comments

Commenter requests that Ecology add language that ensures transparency for the rebuttable presumption and exemption processes. Commenter requests Ecology apply a higher standard for “essential use exemptions.”

Response

Thank you for your comment. The rule requires a statement and supporting credible evidence in the rebuttable presumption and exemption processes. We will continue to refine our processes to ensure transparency and clarity regarding these decisions for the public we serve. Because we think the rule is sufficiently clear and enforceable, we didn't change the language.

2.13 Confidential business information

The following comment relates to confidential business information.

Comment 2.13.A

Commenter

Leatherman, Crystal (Washington Retail Association)

Summary of comment

Commenter requests a provision that allows manufacturers to request confidential treatment of proprietary information.

Response

Thank you for your comment. Manufacturers may request that Ecology treat information as confidential, as stated in WAC 173-337-065. We developed a [guidance document](#)³⁹ for manufacturers who want to request Ecology to treat information as confidential under the Safer Products for Washington program. Because the rule includes a process for manufacturers to request confidential treatment of information, we did not change the rule.

2.14 Enforcement

The following comments relate to enforcement of the rule.

Comment 2.14.A

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Commenter requests Ecology expand and clarify enforcement mechanisms and penalties.

Response

Thank you for your comment. Regulated entities are responsible for complying with all applicable laws and rules; in this case: the requirements in the [Safer Products Restrictions and Reporting Rule](#) (Chapter 173-337 WAC).⁴⁰

We may identify potentially non-compliant products through product testing, examining product labels, and reviewing other reliable information. If a manufacturer appears to be in violation of the Safer Products Restrictions and Reporting Rule, we send an inquiry to the potentially responsible party. If there is no response to the inquiry, or if we determine that a violation has occurred and the responsible party is not taking corrective action, we may issue an enforcement notice. The enforcement notice may include a penalty.

³⁹ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/CBI_Process_SaferProductsWA_Dec2023.pdf

⁴⁰ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-337>

For more detail, please see our [Safer Products for Washington compliance page](#),⁴¹ and scroll down to “Frequently asked questions.”

Comment 2.14.B

Commenter

Dalluge, Elisia

Summary of comment

Commenter highlighted that our enforcement process should put the responsibility for compliance on the manufacturer, and that we should pursue strict enforcement actions with minimal delay when products are found to be out of regulatory compliance.

Response

Thank you for your comment. Regulated entities are responsible for complying with all applicable laws and rules. As part of our enforcement process, if we presume a product is not in compliance based on initial product screening, we will give regulated entities the opportunity to rebut our presumption of non-compliance. Regulated entities may rebut this presumption by providing additional information that demonstrates compliance. If they don't, we can pursue additional enforcement actions as appropriate, including issuing civil penalties.

Comment 2.14.C

Commenters

Dalluge, Elisia

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comments

Commenters would like civil penalties increased to reflect the true costs of exposure and to prevent manufacturers from violating rule requirements.

Response

Thank you for your comment. RCW 70A.350.070 defines penalties, and we cannot change them in rule.

Comment 2.14.D

Commenter

Leatherman, Crystal (Washington Retail Association)

⁴¹ <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/washingtons-toxics-in-products-laws/safer-products/compliance-and-reporting>

Summary of comment

Commenter states that retailers should not bear enforcement risk when using data provided by manufacturers and suppliers. Commenter asks for clarification on whether only manufacturers would be subject to penalties, and not retailers.

Response

Thank you for your comment. Regulated entities are responsible for complying with all applicable laws and rules. Generally, we focus compliance efforts on the first entity to possess the product in Washington State, but that does not absolve other entities involved in the chain of sale. Retailers can review product requirements with manufacturers as a way to check for compliant products.

3.0 Joint letters

We received two comment letters signed by many commenters. We wrote one response for each comment letter. See Ecology's response to each letter in sections 3.1 and 3.2 below, and the comment letters in Appendix A.

3.1 Toxic-Free Future petition

Comment 3.1.A

Commenters

We received a petition from Toxic-Free Future signed by 203 individuals. [Commenter List 2](#) (above) lists the names of the people who signed this petition. Some signers added additional comments to the petition, but the content of these comments did not differ substantially from the petition. These comments received a single response.

Summary of comment

Commenters express concerns about PFAS. They express concern about the reporting requirements in the rule, and state that Ecology must do more to identify safer solutions and ban PFAS in all products, not just a few.

Response

Thank you for your comment. PFAS are a class of toxic chemicals that are used for various functions in consumer products, such as adding water resistance in apparel or to aid in soil or stain removal in cleaning products. Although those qualities have made them widely used in a range of products, many of these chemicals have also been shown to build up in people, animals, and the environment over time. They're often called "forever chemicals" because many don't completely break down in the environment.

People can be exposed to PFAS when they use products containing PFAS. Consumer products can also release PFAS into dust or the air. Many PFAS are linked to cancer as well as reproductive and developmental harm in humans. They're also linked to toxicity in fish and wildlife.

The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives.

The law only authorizes Ecology to restrict a chemical in a product category when safer alternatives are feasible and available. We restricted PFAS in only three of the product categories because we identified safer, feasible, and available alternatives in those product categories.

We are continuing work to find alternatives to PFAS in cookware and kitchen supplies, firefighting PPE, floor waxes and polishes, and hard surface sealers, but to date, we have not found safer, feasible, and available alternatives. This means we can't restrict PFAS in these products at this time.

3.2 Toxic-Free Future multi-organization letter

Comment 3.2.A

Commenters

Toxic-Free Future submitted a letter signed by 14 additional organizations. [Commenter List 3](#) (above) lists the names of the organizations. This letter received a single response.

Summary of comment

Commenters support restrictions on PFAS in cleaning products, automotive washes, and apparel and accessories but state that the reporting requirements on the other nine product categories fall short of legislative intent. They oppose the reporting requirements only for these product categories, especially for cookware and kitchen supplies, and indicate that safer alternatives are available. They state that the availability of safer alternatives indicates Ecology should restrict PFAS in this product category.

For other product categories, commenters state Ecology must do more to identify safer alternatives so they can further restrict PFAS use. They say Ecology should enforce when companies do not respond to orders for information.

Response

Thank you for your comment.

The law only authorizes Ecology to restrict a chemical in a product category when safer alternatives are feasible and available. We restricted PFAS in only three of the product categories because we identified safer, feasible, and available alternatives in those product categories.

In instances where we couldn't find safer, feasible, and available alternatives, we adopted reporting requirements. Reporting requirements support supply chain transparency and help us better prioritize future actions and potential regulations.

We are continuing work to find alternatives to PFAS in cookware and kitchen supplies, firefighting PPE, floor waxes and polishes, and hard surface sealers, but to date, have not found safer, feasible, and available alternatives. This means we can't restrict PFAS in these products at this time.

The commenters also urged us to use our authority to identify alternatives, and to enforce orders sent to manufacturers as part of our research process for this rule. Some manufacturers send the required information by the order deadline. We communicate with manufacturers who miss the deadline to get them on a path to compliance, which gets us the information required.

4.0 Miscellaneous

The following comments don't relate to the proposed rule or rulemaking.

4.1 Other products and chemicals

Comment 4.1.A

Commenter

Anonymous, Anonymous

Summary of comment

Commenter requests that Ecology restrict PFAS in artificial fragrances in a variety of product categories.

Response

Thank you for your comment. The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives. In typical cycles of Safer Products, we follow a transparent, public process to identify priority products. However, this rule update is the result of a partial cycle added by the Legislature in 2022 that only covered products identified in our 2021 PFAS Chemical Action Plan.

We can't adopt requirements for new potential priority product categories in this rulemaking, including PFAS in artificial fragrances. However, we can consider your suggestion in a future cycle. The rule restricts the manufacture, sale, and distribution of fragrances in beauty and personal care products in Washington State that contain intentionally added ortho-phthalates. See section 111 in the rule (Chapter 173-337 WAC).

Comment 4.1.B

Commenter

Dalluge, Elisia

Summary of comment

Commenter asks why make-up and other products affecting skin are not included in this rule.

Response

Thank you for your comment. The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives. In typical cycles of Safer Products, we follow a transparent, public process for identifying priority products. However, this rule update is the result of a partial cycle added by the Legislature in 2022 that only covered products identified in our 2021 PFAS Chemical Action Plan.

In Cycle 1 of Safer Products, we adopted a restriction on ortho-phthalates in fragrances in beauty and personal care products that went into effect on January 1, 2025. In Cycle 2, we identified cyclic volatile methylsiloxanes (commonly referred to as cVMS) in cosmetics and BTEX substances in nail products as priority chemicals in priority product categories. We are currently in Phase 3 of Cycle 2, where we conduct research to determine whether safer alternatives are feasible and available for these and other product categories identified in the [Safer Products for Washington Cycle 2 Final Identification of Priority Products Report to the Legislature](#).⁴²

Comment 4.1.C

Commenter

Labrucherie, Bernie

Summary of comment

Commenter expresses concerns about the impacts of fireworks and plastics on the environment and requests that Ecology ban these products.

Response

Thank you for your comment. The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives. In typical cycles of Safer Products, we follow a transparent, public process to identify priority products. However, this rule update is the result of a partial cycle added by the Legislature in 2022 that only covered products identified in our 2021 PFAS Chemical Action Plan.

On November 20, 2025, we adopted amendments to the rule, which completes Cycle 1.5. In Cycle 2, we identified plastic packaging made from organochlorine substances as a priority product category; this includes polyvinyl chloride (PVC) and polyvinylidene chloride (PVDC) plastics. We are currently in Phase 3 of Cycle 2, where we conduct research to determine whether safer alternatives are feasible and available for this and other product categories identified in the [Safer Products for Washington Cycle 2 Final Identification of Priority Products Report to the Legislature](#).⁴³ We can't adopt requirements for new product categories, including fireworks or plastics, in this rulemaking. However, we can consider these suggestions in future cycles.

Comment 4.1.D

Commenter

Louderback, Samantha (Printing Industries of Washington)

Summary of comment

Commenter expresses concern about Ecology's inclusion of polychlorinated biphenyls (PCBs) in ink in the Safer Products for Washington program. They are concerned about

⁴² <https://apps.ecology.wa.gov/publications/SummaryPages/2504030.html>

⁴³ <https://apps.ecology.wa.gov/publications/SummaryPages/2504030.html>

federal preemption and the emphasis placed on PCBs which are not intentionally added.

Response

Thank you for your comment. We can't adopt requirements for PCBs in printing inks in this rulemaking and invite you to participate in our Cycle 2 process to discuss potential actions related to PCBs in printing inks. We are currently in Phase 3 of Cycle 2, where we conduct research to determine whether safer alternatives are feasible and available for this and other product categories identified in the [Safer Products for Washington Cycle 2 Final Identification of Priority Products Report to the Legislature](#).⁴⁴

Comment 4.1.E

Commenter

Bynes, Coleman

Summary of comment

Commenter requests that Ecology ban forever chemicals.

Response

Thank you for your comment. The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives. We only have the authority to restrict a chemical in a product when safer alternatives are feasible and available. We invite you to participate in our Cycle 2 process to learn about the chemicals and products we're considering.

Comment 4.1.F

Commenter

Callahan, Kevin (BP Polymers LLC)

Summary of comment

Commenter expresses concerns about PFAS in packaging, pesticides, and agricultural products, and asks Ecology to expand the scope of the rule to include additional product categories, such as agricultural and pesticide products.

Response

Thank you for your comment. The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives. In typical cycles of Safer Products, we follow a transparent, public process to identify priority products. However, this rule update is the result of a partial cycle added by the Legislature in 2022 that only covered products identified in our 2021 PFAS Chemical Action Plan.

⁴⁴ <https://apps.ecology.wa.gov/publications/SummaryPages/2504030.html>

On November 20, 2025, we adopted amendments to the rule, which completes Cycle 1.5. We identify new priority products in Phase 2 of each cycle. We can't adopt requirements for new products, like packaging, pesticides, and agricultural products, in this rulemaking. The law doesn't allow us to identify products used to produce an agricultural commodity, as defined in [RCW 17.21.020](#),⁴⁵ as priority consumer products. The Washington State Department of Agriculture largely handles Washington State pesticide laws and rules. Additionally, Washington has an existing prohibition on intentional use of PFAS in certain food packaging products as defined in RCW 70A.222.070. For more information, please see our [PFAS in food packaging webpage](#).⁴⁶

Comment 4.1.G

Commenters

Moffat, Lorna

Reising, Lisa

Summary of comments

Commenters request that Ecology consider restricting biosolids applied to farmland.

Response

Thank you for your comment. Safer Products for Washington focuses on consumer products where PFAS are intentionally added, not on secondary sources of potential exposure like biosolids. This effort to reduce the source of PFAS is the most effective approach to reduce the amount of PFAS that can make its way to a wastewater treatment plant and from there into biosolids. When manufacturers don't add PFAS to consumer products, we expect to see less downstream contamination over time.

Our solid waste program implements the Biosolids Management rule (Chapter 173-308 WAC)⁴⁷ and [Statewide General Permit for Biosolids Management](#).⁴⁸ [PFAS in biosolids](#)⁴⁹ have been the focus of a lot of recent research, but data gaps still exist. In lieu of federal regulations on PFAS in biosolids, Ecology is assessing the levels of PFAS found in Washington biosolids to inform future policy decisions.

We published the [Assessment of PFAS Levels in Washington State Biosolids](#)⁵⁰ on September 29, 2025. This was a limited sampling study of PFAS in biosolids at 44 wastewater treatment plants across the state. It confirmed what Ecology expected to find: low PFAS levels in biosolids similar to findings in states without PFAS manufacturing. While this study allowed us to gather initial data on PFAS levels in Washington biosolids, it was limited in scope. Additional data is needed both in

⁴⁵ <https://app.leg.wa.gov/RCW/default.aspx?cite=17.21.020>

⁴⁶ <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/washingtons-toxics-in-products-laws/pfas-in-food-packaging>

⁴⁷ <https://app.leg.wa.gov/wac/default.aspx?cite=173-308>

⁴⁸ <https://apps.ecology.wa.gov/publications/SummaryPages/2107006.html>

⁴⁹ <https://apps.ecology.wa.gov/publications/SummaryPages/2507020.html>

⁵⁰ <https://apps.ecology.wa.gov/publications/SummaryPages/2507057.html>

frequency and location to inform future policy decisions. The Legislature's adoption of amendments to [Chapter 70A.226 RCW](#)⁵¹ during the 2025 legislative session will help Ecology gather additional data.

Comment 4.1.H

Commenter

Donovan, Jeff (City of Spokane)

Summary of comment

Commenter asks that Ecology continue to focus on consumer products with a high potential of entering water, wastewater, and stormwater systems.

Response

Thank you for your comment. We agree that PFAS contamination of water resources, wastewater, and stormwater systems is a critical issue and will continue to include this consideration as we prioritize product categories in future cycles.

The law requires that we identify priority products that are significant sources of or uses of priority chemicals, such as PFAS. We consider multiple factors when identifying priority product categories, including:

- Volume of the chemical found in the product
- Volume of the product sold or present in the state
- Potential for exposure of sensitive populations and sensitive species
- Feasibility and availability of potential safer alternatives
- Regulations in other jurisdictions

As part of this process, we also consider information gathered through our own research on products, received public and community input, and input from other technical experts.

4.2 Spokane aquifer

Comment 4.2.A

Commenter

Frazier, Victor

Summary of comment

Commenter expresses the importance of protecting the Spokane aquifer from contamination while balancing costs.

Response

⁵¹ <https://app.leg.wa.gov/rcw/default.aspx?cite=70a.226>

Thank you for your comment. By restricting the use of harmful chemicals, we help ensure that products manufactured, sold, and distributed in Washington are safer for people and the environment. Similarly, through reporting requirements, we increase transparency so consumers can make more informed decisions about the products they use every day.

Reducing the use of harmful chemicals protects the quality of water resources, including [aquifers](#).⁵² You can participate in future public meetings about aquifer protection by [signing up for updates](#).⁵³

4.3 Authority to identify alternatives

Comment 4.3.A

Commenters

Byrnes, Katie (Washington Conservation Action Education Fund)

Dalluge, Elisia

Peele, Cheri (Toxic-Free Future)

Summary of comments

For other product categories with reporting requirements, commenters urge Ecology to identify alternatives quickly and further restrict PFAS use. Commenters state that when companies do not respond to mandatory data calls, Ecology should implement its enforcement provisions.

Response

Thank you for your comment. Some manufacturers send the required information by the order deadline. We communicate with manufacturers who miss the deadline to get them on a path to compliance, which gets us the information required.

4.4 Transparency

Comment 4.4.A

Commenter

Dalluge, Elisia

Summary of comment

Commenter noted the need for additional transparency regarding use of chemicals in products.

Response

Thank you for your comment. In instances where we didn't find safer, feasible, and available alternatives, we adopted reporting requirements. Reporting requirements

⁵² <https://ecology.wa.gov/water-shorelines/water-quality/groundwater/protecting-aquifers>

⁵³ <https://www.spokanecounty.gov/list.aspx>

support supply chain transparency and help us better prioritize future actions and potential regulations.

4.5 Chemical classes

Comment 4.5.A

Commenter

Slan, Teri

Summary of comment

Commenter suggests that Ecology address regulating chemicals by chemical class to avoid regrettable substitutions.

Response

Thank you for your comment. Cycle 1.5 focused on PFAS as a chemical class.

The Washington State Legislature gave us the authority to regulate chemicals on a class basis. Chemicals within a class often share hazard traits. Less well-characterized chemicals within the same class are considered likely to share the same hazards and therefore require more scrutiny.

Considering classes of chemicals helps us prevent the use of regrettable substitutions where one chemical is restricted and replaced with a similar and equally or more toxic chemical. This approach helps us:

- Avoid assuming chemicals with no data are safe.
- Prevent regrettable substitutions.
- Promote safer alternatives.
- Reduce exposures to toxic chemicals.
- Avoid complex and expensive future pollution and cleanup efforts.

4.6 California Cleaning Products Right to Know Act

Comment 4.6.A

Commenter

Bennett, Steve (Household and Commercial Products Association)

Summary of comment

Commenter requests that Ecology consider using ingredient disclosures by companies made in response to the California Cleaning Product Right to Know Act. The commenter states that the California Cleaning Product Right to Know Act requires disclosure of all intentionally added ingredients, regardless of concentration, and reporting of the presence of specified contaminants or byproducts at or above 100 ppm.

Response

Thank you for your comment. The Safer Products for Washington program implements Chapter 70A.350 RCW in five-year cycles across four phases to move the market

toward safer products by restricting toxic chemicals when we identify safer, feasible, and available alternatives. If we evaluate new cleaning products, we will leverage the data respondent to the California Cleaning Product Right to Know Act to the extent possible.

4.7 Coordinate with U.S. EPA

Comment 4.7.A

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Commenter suggests that Ecology work with the U.S. EPA and U.S. Food and Drug Administration (U.S. FDA) to share confidential business information on products and manufacturing processes.

Response

Thank you for your comment.

4.8 Labels

Comment 4.8.A

Commenter

Gardner, Tristan (PHSKC Hazardous Waste Management Program)

Summary of comment

Commenter would like Ecology to determine whether products with green certification labels meet criteria for safer alternatives. Commenter also recommends that Ecology phase in labeling restrictions or ban the use of “PFOS-free” and “PFOA-free” labels.

Response

Thank you for your comment. The [process we use to identify alternatives](#)⁵⁴ that are less hazardous includes using existing third-party assessments that meet our criteria, such as [U.S. EPA Safer Choice](#).⁵⁵ The statute does not give Ecology the authority to require manufacturers to label products, confirm general labeling accuracy, or restrict manufacturers from using certain product labels. We may use product ingredient labels

⁵⁴ For more information on our criteria for safer and safer certifications, see the Regulatory Determinations Report to the Legislature: Safer Products for Washington Cycle 1 Implementation Phase 3, Appendices C and E. See <https://apps.ecology.wa.gov/publications/summarypages/2204018.html>

⁵⁵ Safer Choice is a voluntary program offered by the U.S. EPA. Before a product can carry the Safer Choice label, the U.S. EPA reviews all chemical ingredients, regardless of their percentage in the product. Every ingredient must meet specified safety criteria for both human health and the environment, including carcinogenicity, reproductive and developmental toxicity, toxicity to aquatic life, and persistence in the environment. More information on Safer Choice is available at <https://www.epa.gov/saferchoice/learn-about-safer-choice-label>.

as part of our compliance strategy, but they are one factor among many when considering enforcement and would not supersede results from Ecology approved product testing studies.

4.9 Late submittals

Comment 4.9.A

Commenter

Jensz, Ron (Envalior)

Pollack, James (Outdoor Industry Association)

Summary of comment

We received two comment submissions after the comment period closed. Because the comments were submitted after the comment period closed, we couldn't take action in response to these comments. However, we appreciate receiving the comments and included them in this Concise Explanatory Statement and the public record for this rulemaking.

Response

Thank you for your comments and your interest in this rulemaking.

References

Chapter 173-337 WAC Safer Products Restrictions and Reporting AO #23-07

Overview

We developed this list of sources to meet the requirements outlined in [RCW 70A.350.050](#)⁵⁶ and [RCW 34.05.272](#).⁵⁷ It contains references for data, information, studies, or reports that we relied on in the adoption of this rulemaking ([RCW 34.05.370\(f\)](#)).⁵⁸

Each reference below includes a category number that corresponds to the type of source used to support this rulemaking. The eleven categories are as follows:

1. Peer review is overseen by an independent third party.
2. Review is by staff internal to Ecology.
3. Review by persons that are external to and selected by Ecology.
4. Documented open public review process that is not limited to invited organizations or individuals.
5. Federal and state statutes.
6. Court and hearings board decisions.
7. Federal and state administrative rules and regulations.
8. Policy and regulatory documents adopted by local governments.
9. Data from primary research, monitoring activities, or other sources, but that has not been incorporated as part of documents reviewed under other processes.
10. Records of best professional judgment of Ecology employees or other individuals.
11. Sources of information that do not fit into one of the other categories listed.

⁵⁶ <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.350.050>

⁵⁷ app.leg.wa.gov/RCW/default.aspx?cite=34.05.272

⁵⁸ <https://app.leg.wa.gov/rcw/default.aspx?cite=34.05.370>

Ecology used the following to support the Safer Products for Washington Rulemaking.

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Appendices

The Concise Explanatory Statement appendices include written comments, verbal testimonies, and edits to the proposed rule. To view the appendices, visit [this publication's summary page](#).⁵⁹

The Concise Explanatory Statement appendices include:

- Appendix A: Written Comments.
- Appendix B: Hearing Testimonies.
- Appendix C: Proposed Rule with Edits to Reflect Adopted Rule.

⁵⁹apps.ecology.wa.gov/publications/SummaryPages/2504071.html