

WAC 173-337-111 Ortho-phthalates. (1) Fragrances in beauty products and personal care products.

(a) Applicability.

(i) Priority consumer products. This subsection applies to:

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

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

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

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

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

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

(C) Consumer products regulated by the FDA as medical devices.

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

(c) Restriction.

(i) No person may manufacture, sell, or distribute a priority consumer product described in (a) of this subsection that contains an intentionally added ortho-phthalate used as a solvent or fixative for fragrance ingredients.

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

(ii) Ecology presumes the detection of ortho-phthalates **not** listed in the ingredients, indicates the intentional addition of ortho-phthalates as solvents or fixatives for fragrance ingredients.

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

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

(B) A statement that an ortho-phthalate was **not** intentionally added as a solvent or fixative. Provide credible evidence supporting that statement and include information, data, or sources relevant to demonstrate that an ortho-phthalate was **not** intentionally added.

(2) Vinyl flooring.

(a) **Applicability.** Priority consumer products. This subsection applies to vinyl flooring.

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

(c) **Restriction.** No person may manufacture, sell, or distribute a priority consumer product described in (a) of this subsection that contains more than 1,000 ppm of any ortho-phthalate, individually or combined.

This does **not** apply to a:

(i) Priority consumer product described in (a) of this subsection manufactured before January 1, 2025, even if the priority consumer product was refurbished after January 1, 2025.

(ii) Repair part or replacement part that was made to refurbish a priority consumer product described in (a) of this subsection that was manufactured before January 1, 2025.

[Statutory Authority: Chapter 70A.350 RCW. WSR 23-12-044 (Order 21-01), § 173-337-111, filed 5/31/23, effective 7/1/23.]