

WSR 24-01-020
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 23-07—Filed December 8, 2023, 8:09 a.m.]

Subject of Possible Rule Making: The Washington state department of ecology (ecology) is starting a rule making to revise the safer products restrictions and reporting rule, chapter 173-337 WAC, aiming to reduce PFAS in consumer products.

Ecology plans to conduct this rule making to:

- Reduce the use of priority chemicals in priority consumer products.
- Revise chapter 173-337 WAC in accordance with the regulatory actions outlined in the regulatory determinations report to the legislature that ecology will submit by June 1, 2024.

Under the authority of chapter 70A.350 RCW, ecology may restrict the manufacture, sale, and distribution of a chemical in a product, or require manufacturers to report the use of a chemical in a product.

In this rule making, ecology may create reporting requirements or restrictions that apply to the use of PFAS in product categories such as:

- Apparel and gear.
 - Apparel examples include athleticwear, rainwear, school uniforms, clothing for everyday use, undergarments (reusable diapers and period underwear), hats, scarves, gloves, shoes, outerwear for mountaineering, outerwear for whitewater kayaking, and commercial fishing bibs for offshore fishing.
 - Gear examples include backpacks, sleeping bags, umbrellas, camping furniture, and climbing rope.
- Cleaning products, including products to wash automobiles and boats.
- Cookware and kitchen supplies.
 - Examples include frying pans, cooking pots, rice cookers, waffle makers, griddles, bakeware, and reusable baking liners.
- Firefighting PPE (personal protective equipment).
- Hard surface sealants.
 - Examples include sealants applied to hard porous surfaces like stone, unglazed tile, concrete, and wood. They can be used for interior and exterior applications.
- Waxes and polishes, including products for floors, automobiles, skis, and snowboards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70A.350 RCW, Toxic pollution.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: PFAS are a group of toxic chemicals that are very persistent in the environment. Most people living in the United States have PFAS in their blood. People are exposed through food, drinking water, and products with PFAS. As products are created, used, and disposed, exposure can occur:

- Directly from items such as apparel, cleaning products, and cookware.
- Indirectly from the environment; through the air we breathe, water we drink, and food we eat.

Ecology plans to develop rules that could:

- Reduce the use of PFAS in products by restricting PFAS when ecology identifies safer, feasible, and available alternatives. This will help:
 - o Reduce consumers' and workers' exposure to PFAS.
 - o Reduce the amount of PFAS entering the environment.
- Increase product ingredient transparency.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Environmental Protection Agency regulates toxic chemicals through the Toxic Substance Control Act. Many states regulate chemicals in consumer products or have proposed regulations. Ecology will consider these regulations when developing requirements and will coordinate with these agencies as necessary.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Stacey Callaway, Department of Ecology, Hazardous Waste and Toxics Reduction Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-584-5661, Washington relay service or TTY call 711 or 877-833-6341, email SaferProductsWA@ecy.wa.gov, website Rulemaking webpage. [Contact agency for link.]

Additional comments: Get involved in this rule making by sharing feedback on the Cycle 1.5 Draft Regulatory Determinations Report. The comment period is open now and closes at 11:59 p.m. PST on January 12, 2024; by signing up for email announcements; or by attending webinars. Our next webinars will occur on December 13 and 14, 2023. Visit our interested parties web page for more information. [Contact agency for links.]

Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of the rule making. Ecology will also complete an environmental justice assessment in compliance with RCW 70A.02.06 as part of this rule making.

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Katrina Lassiter, Program Manager
Hazardous Waste and Toxics Reduction