



March 2, 2020

Director Laura Watson

Washington State Department of Ecology

Attn: Hazardous Waste and Toxics Reduction Program

Lacey, WA 98503

Re: Comments on Safer Products for Washington Draft Report on Priority Consumer Products

Dear Director Watson,

Thank you for the opportunity to comment on the draft report on Priority Consumer Products.

Washington Environmental Council is a nonprofit, statewide advocacy organization that has been driving positive change to solve Washington's most critical environmental challenges since 1967. Our mission is to protect, restore, and sustain Washington's environment for all. We believe in approaching our work with a racial equity lens that prioritizes equitable solutions and policies for all Washington residents.

First, we would like to thank the Department of Ecology for swiftly implementing the Pollution Prevention for our Future Act. A major source of exposures for both people and orcas is through toxic chemicals intentionally put in consumer products, including PFAS, flame retardants, PCBs, phenolic compounds, and phthalates. The draft report of Priority Consumer Products is an important step in regulating the five toxic chemical classes.

Southern Resident orcas are among the most critically endangered species in the United States and are iconic to the culture and identity of the Pacific Northwest. In 2018, the Orca Task Force identified several contaminants that are contributing to the declining Southern Resident orca population, including all five of the priority chemical classes being currently addressed. Toxic chemicals are found in high concentrations in Southern Resident blubber and have been implicated in the poor health status of orcas, including low reproductive rates.¹ Furthermore, Puget Sound Chinook salmon stocks, particularly those in the Duwamish and Puyallup Rivers, carry such high levels of PCBs that they may be interfering with juvenile salmonid survival and thereby reducing food availability for orcas.²

¹ Southern Resident Orca Task Force: Report and recommendations. 2018.

² WDFW. 2015. Toxic contaminants in juvenile Chinook salmon (*Oncorhynchus tshawytscha*) migrating through estuary, nearshore and offshore habitats of Puget Sound.



Many of the same toxics that are associated with health impacts in orcas are also responsible for negative health outcomes in human populations, particularly in communities of color and low-income communities. The disproportionate exposure of toxics chemicals to communities of color and low-income communities is due to higher occupational exposures, higher use of products by specific populations, and targeted marketing of products containing toxic chemicals.

The current draft of priority products includes many products that contribute to high levels of toxic exposure to people and the environment. We strongly support the inclusion of all currently proposed products.

In addition to the proposed product list, we encourage Ecology to include additional products. The five chemical classes represent some of the most toxic, pervasive, and persistent chemicals to humans and the environment. It is imperative that Ecology act quickly to identify alternatives and phase out these dangerous chemicals. We understand that under the law Ecology is required to repeat this process every five years, however if not enough high exposure products are considered in this round, there could be a long delay before products in these five chemical classes are reevaluated.

We do not believe that the proposed list is comprehensive enough to protect against high exposures to the five chemical classes. In particular, we are concerned that the proposed list still leaves communities of color and low-income communities disproportionately impacted. At a minimum, we would like to see the following consumer products added to the priority product list:

- All fragranced consumer products containing phthalates— Phthalates are not only found in body sprays, perfumes, and colognes, but they are also found in hundreds of fragranced products including laundry detergent, soap, candles, nail polish, shampoo, lotion, feminine care products, and hair spray. While we encourage Ecology to consider adding all fragranced consumer products to the priority list, we recognize the number of fragranced products containing phthalates is extensive. Therefore, at a minimum, we believe Ecology should add fragranced cleaning products and personal care products.

Personal care products have a disproportionately high impact on women of color. Studies have shown that personal care products containing toxic chemicals are not only more commonly used by women of color,³ but they are also specifically marketed to women of color.⁴ Similarly, cleaning products may also have a disproportionate exposure to women due to higher product use⁵ and to people of color due to higher occupational exposure.⁶

Phthalates found in personal care products and cleaning products also end up in the aquatic environment through wastewater and stormwater pathways. We urge Ecology to prioritize phthalates in personal care products and cleaning products.

³ Zota et al. 2017. The environmental injustice of beauty: framing chemical exposures from beauty products as a health disparities concern. *AJOG*.

⁴ Environmental Working Group. 2016. Big market for black cosmetics, but less-hazardous choices limited.

⁵ US Bureau of Labor Statistics. 2019. <https://www.bls.gov/news.release/atus.nr0.htm>

⁶ US Bureau of Labor Statistics. 2017. <https://www.bls.gov/opub/reports/race-and-ethnicity/2017/home.htm>



- Personal care products containing PFAS – In 2018, Washington moved to ban PFAS in food wrappers and firefighting foams. PFAS, however is still commonly found in textiles, apparel, and personal care products. Due to the disproportionate use of personal care products by women of color, we encourage Ecology, at a minimum, to prioritize personal care products in the priority product list.
- Dyes and paints containing PCBs – PCBs are dangerous chemicals that persist in our environment. PCBs were banned in 1979, but a loophole in the law allows unintentionally-generated PCBs to still be produced including in inks, paints, and dyes. PCBs have widespread health implications in humans and PCB concentrations still exceed harmful effect thresholds for several species of fish in Puget Sound and are implicated in the poor health status of Southern Resident orcas.⁷ We therefore urge Ecology to also assess PCBs in paints and dyes.

We applaud Ecology for considering equity in their process; however, we do not believe that barriers to replacement should be a reason for not including a product. The purpose of the current phase, Phase 2, is to identify consumer products that are significant sources of the five toxic chemical classes – barriers to regulatory action should not be considered. Furthermore, equitable incentive and swap-out programs can be developed to help communities of color and low-income communities replace toxic products. We encourage Ecology to reconsider any products that were not previously included due to perceived barriers.

Thank you for your consideration of this feedback. We look forward to engaging with Ecology throughout this process to ensure toxic chemicals are removed from our homes and environment.

Sincerely,

Michelle Chow
Stormwater and Toxics Policy Manager
Washington Environmental Council

⁷ NOAA. 2016. Technical Memo. Exposure to a Mixture of Toxic Chemicals: Implications for the Health of Endangered Southern Resident Killer Whales.