Natural Resources Defense Council

See attachment for comments.

January 28, 2022

Submitted via email to SaferProductsWA@ecy.wa.gov

Re: Safer Products for Washington - Draft Report to the Legislature on Regulatory Determinations: Flame Retardants

We appreciate this opportunity to submit comments on behalf of the Natural Resources Defense Council (NRDC), a non-profit organization with over 28,000 supporters in Washington. We support the Department of Ecology ("Ecology") banning harmful chemicals in products under Safer Products for Washington. We have no financial interest in any of the chemicals or products that may be affected by the subject matter of these comments.

Ecology has completed a strong, science-based technical analysis regarding safer, feasible and available alternatives for flame retardants in recreational polyurethane foam products, electric and electronic products. Ecology's evaluation of the class of organohalogen flame retardants is consistent with current science and follows the framework recommended by the National Academies of Sciences, Engineering and Medicine.[1] Ecology's conclusion that the class of organohalogen flame retardants does not meet the definition of "safer" is sound.

Ecology has applied best practices of alternatives assessment in evaluating safer, feasible and available alternatives including: defining clear criteria for "safer"; considering functional substitution at the chemical and non-chemical levels (such as changes in product design); and engaging with impacted stakeholders (including the fire safety community).[2]

For its findings on recreational foam, Ecology completed extensive analysis of building fire safety codes and standards, product flammability standards, and consultation with the fire safety community. Ecology found that in general, recreational polyurethane foam products do not need added flame retardants to meet fire safety requirements. Further, there are recreational foam products without added flame retardants currently available on the market.

For electric and electronic enclosures, Ecology reviewed the extensive science demonstrating that these products are a significant source of flame retardant exposures, especially for the sensitive population of young children. Ecology also analyzed the relevant flammability standards for these products and found that organohalogen flame retardants are not needed for fire safety. Some products can utilize safer flame retardants, or obviate the need for any flame retardants by using an internal or external enclosure made of a non-polymeric material like metal. The European Union acted to restrict organohalogen flame retardants in electronic displays in 2019 and New York has just passed a similar law, both recognizing the serious concerns with this class of chemicals. Ecology's proposal is consistent with these policies. The fact that manufacturers will already have to meet these requirements in the EU and NY means that there is no reason for continued use of flame retardants for those products in Washington.

NATURAL RESOURCES DEFENSE COUNCIL

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The science supports Ecology's determinations that restricting flame retardants in recreational polyurethane foam products, electric and electronic products would reduce significant uses of these chemicals, reduce the potential for human exposures, and protect sensitive populations. Implementing the proposed flame retardant restrictions would have a positive impact on human and environmental health in Washington and beyond and we look forward to seeing Ecology move expediently to advance regulations. Thank you for the opportunity to comment, and please do not hesitate to contact us if we can provide further information.

Sincerely,

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Senior Attorney and Director, State Health Policy

[1] National Academies of Sciences Engineering and Medicine. A Class Approach to Hazard Assessment of Organohalogen Flame Retardants [Internet]. A Class Approach to Hazard Assessment of Organohalogen Flame Retardants. Washington, D.C.: National Academies Press; 2019 [cited 2019 Aug 9]. Available from: https://www.nap.edu/catalog/25412

[2] Tickner JA, Simon R V., Jacobs M, Pollard LD, van Bergen SK. The nexus between alternatives assessment and green chemistry: supporting the development and adoption of safer chemicals. Green Chem Lett Rev [Internet]. 2021 [cited 2021 Feb 5];14(1):21–42. Available from: https://www.tandfonline.com/action/journalInformation?journalCode=tgcl20