

Environmental Health Services Division

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Cheryl Niemi
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November 17, 2022

Dear Ms. Niemi,

Public Health – Seattle & King County (PHSKC) thanks the WA State Department of Ecology (Ecology) and the WA State Department of Health (Health) for the opportunity to comment on the Phthalates Chemical Action Plan (CAP) Preliminary Draft Recommendations. As the most populous county in the state of WA, PHSKC represents a diversity of concerns around the use, release, exposure and elimination of phthalates. While we appreciate the extension to the comment period that was granted to interested parties and CAP advisory members, a longer timeline would have allowed for additional input from other King County departments. Ecology, Health and King County have a common goal of reducing harmful exposures to chemicals like phthalates, and PHSKC welcomes opportunities to participate in and support this important work in collaboration with state partners. Below we provide general comments as well as specific comments on the draft recommendations outlined by Ecology and Health.

General comments:**1) An abbreviated CAP will not provide a reference from which other agencies and organizations, local jurisdictions, community groups, individuals and policy makers can take action.**

WAC 173-333-400 defines a CAP as “a plan that identifies, characterizes and evaluates uses and releases of a specific PBT, a group of PBTs or metals of concern and recommends actions to protect human health or the environment.” As defined, previous CAPs have described what is known about a chemical or chemical class in WA State and serves as point in time status of that chemical/chemical class in the state. It then highlights where there are concerns or knowledge gaps, and lays out recommendations for moving forward to reduce exposures to harmful chemicals in the environment and humans in WA State. Recommendations normally include both near and long term actions, including policy recommendations. Previous CAP recommendations spanned a wide variety of readiness, including immediately actionable to those where regulatory mechanisms would need to be developed to achieve them. For this phthalates CAP, Ecology is conducting an abbreviated process and will not be providing a robust “state of the state” for Phthalates in WA. As justification, Ecology has explained that they are under a limited timeline that is tied to grant funding. PHSKC is not clear on the difference between a CAP and what Ecology is calling an AP under the PBT rule and how funding for this works. While the current process seems to be tied to grant funding, Ecology has not explained why this effort is different from other CAP processes regarding funding and timeline (i.e., why Ecology chose to pursue a different approach for this CAP). Even with the current timeline, the

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advisory group was convened for the first time in February 2022 and the deadline for a final plan is December 2023. With multiple staff working on this CAP we feel that there was sufficient time to develop a robust document. At present we have been informed that this document will contain limited background information centered only around the recommendations Ecology is providing, with little background information on how those recommendations were determined as priorities for the state. It is difficult to understand how robust recommendations that protect health and the environment can be devised without a detailed knowledge of the current status of phthalate use and release in the state.

PHSKC recommends that Ecology explore ways to extend the existing timeline so that a full CAP can be produced that includes the current state of phthalates in WA and action-oriented recommendations that are based the best available summary of phthalates use/release in WA state. If the timeline is not flexible, we recommend that Ecology expand the current effort to produce a CAP document that clearly lays out the state of phthalates in WA state. Such a document would better serve residents and local organizations than weak recommendations provided with no justification or background.

2) The preliminary draft recommendations reflect a rushed process and are not centered on prioritized actions.

All previous CAP documents produced by Ecology and Health continue to serve as important resources for everyone in WA state. They provide a historical reference point on any given chemical or chemical class, and have led to policy or other actions, even many years later. They also create policy goals towards which groups within the state can aim. The rushed nature of this CAP is reflected in the preliminary draft recommendations, which do not lay out what is known, where there are gaps, or justify the recommendations. The recommendations provided are weak, with little action, mostly focused on conducting more research rather than making the case for where and how actions are needed. Few recommendations currently proposed act to “protect human health or the environment.”

PHSKC recommends that Ecology develop more robust action-oriented short and long term recommendations, including legislation or other policy that would reduce the exposures to harmful phthalates in WA state. Many actions could be proposed based on information that currently exists, and while more research is useful, concurrent short and long term actions should also be included in the recommendations provided.

3) The process to develop the preliminary draft recommendations did not effectively engage advisory members and the public.

Throughout the CAP development process, Ecology limited the time and information provided to advisory members and the public. Advisory meetings were conducted with no background materials provided ahead of time. As advisory members, it was difficult to provide information on the spot without any information on the status of what is known in WA state, nor were we

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able to come to the meeting prepared to share relevant information that we could have gathered from our organizational partners. The process as designed was time intensive yet ineffective at gathering the in-depth information needed. Furthermore, it is difficult to determine how comments or suggestions by advisory members were incorporated in the preliminary draft recommendations - the broad preliminary draft recommendations provided only in slide presentations are not detailed, and the justification behind them is not provided. In other words, it's not clear if the advisory members suggestions were captured and considered in any documented or systematic way.

PHSKC recommends that Ecology revise their approach and re-focus current efforts on describing the state of phthalates in WA state so that actions can be developed by Ecology and Health and other interested parties based on clear and thorough information about phthalate production, use, release and exposure in WA. Furthermore, we recommend that Ecology leadership solicit feedback from the advisory committee members on how the current process needs to be improved for future CAPs.

4) The process to include environmental justice, cumulative and aggregate exposures considerations is not clear.

PHSKC is not sure how Ecology plans to address environmental exposures to mixtures and other stressors, specifically for communities that are overburdened by other chemical exposures and socioeconomic factors. We believe that Ecology has an obligation under the Healthy Environment for All (HEAL) Act of 2021 to explicitly target and reduce the disparate environmental impacts of PBTs, including phthalates, on vulnerable populations and overburdened communities. In advisory meetings, Ecology stated that there will be a "side section" that discusses this topic. We do not believe this is adequate or in the spirit of either the PBT Rule or the HEAL Act.

PHSKC recommends that Ecology ensure that environmental justice considerations are front and center in both the scope of recommendations and within each of the recommendations proposed. Ecology should develop the CAP to serve as a resource in communities experiencing injustices and disproportionate phthalate exposures to allow them to take local actions to reduce their phthalate exposure.

5) Petroleum trends and climate impacts

Because phthalates are made from petroleum products, PSHKC recommends that Ecology include a section in the CAP that discusses expected trends in the use of petroleum products and how that may impact exposures and health outcomes related to phthalates, especially in the context of climate change.

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Comments on specific recommendations:**1) Environmental media and the scope of contamination:**

PHSKC agrees that historical monitoring is not fully reliable, that trends in usage of certain phthalates has changed through time as well as lab methods for detection. However, environmental media sampling has been conducted for decades. To bolster that information there is information on human exposure through NHANES and studies like the NIH's ECHO research that indicate which phthalates are found in children and pregnant women, and how exposures trends have changed based on substitutions of certain compounds for others. There is a large amount of literature and monitoring within WA state that can be used now to identify possible hazards and provide interim proposed actions to reduce exposure risks. While continued research by Ecology is good, policy actions based on existing information should proceed as well. We recommend that the CAP include background information and findings from the 2007 EPA-sponsored Phthalates Work Group focused on source control and sediment (linked [here](#) and [here](#)).

The recommendations for air monitoring/action are very vague and propose potential sample collection and monitoring in WA State. Ecology does not distinguish how this would be done for indoor versus outdoor monitoring. There is information in the literature from other locations on this issue that should be tapped, including dust swipe studies in different types of facilities/businesses. Ecology should engage air agencies in WA state and determine actions as part of the CAP background rather than include that engagement as a recommended action. Furthermore, indoor air recommendations are possible at this time based on existing literature.

2) Biosolids, recycling, composting, and landfill recommendations:

For biosolids, recycling, composting and landfills, a large number of studies have been conducted and are reported in the literature. Biomonitoring has indicated which phthalates are detected in human blood and urine, and toxicity data exists for most compounds, including some mixtures information. Without being provided a summary of this literature by Ecology, it is difficult for the advisory committee to provide recommendations on priorities and how to proceed. Ecology should be providing a basis and justification for all CAP recommendations, and that should start with a status of what is known. The recommendations provided in these sections are very vague, and mainly propose more research and monitoring. They are not oriented toward identifying sources of phthalates that end up in our waste streams, nor focused on reducing any exposures that may result. While more monitoring and research are needed, PHSKC recommends that Ecology develop robust actions in the CAP along with the recommended research. Ecology could propose actions that help the state prioritize where actions are most needed through, for example, recommending development of regulatory or other mechanisms for required monitoring and reporting of biosolids, leachate, dust swipes, compost, etc. by businesses and utilities.

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3) Consumer products

The phthalates CAP relies on Safer Products for WA to assess phthalates in consumer products in WA. While Safer Products for WA is an amazing legislation that allows WA to require safer chemicals be used in products within the state, PHSKC would like to see the CAP include specific actions that will help advance more timely policy action on phthalates. Safer Products for WA includes 5 chemical classes in any given cycle, so PHSKC would like the phthalates CAP to identify opportunities to expand and accelerate removal of known hazardous phthalate exposures in WA state and to accelerate hazard assessments for phthalates where information is less available. The CAP should lay out a plan to ensure that the work on phthalates proceeds at a pace that matches the health and environmental concerns (for example: [Engle et al, 2021](#); [Trasande et al, 2022](#)), including strategies in addition to Safer Products for WA. Current recommendations for this category are limited and not proactive (e.g., voluntary transparency by industry and actions that may happen “if funding allows”). There are many actions that could be proposed and for which funding could be requested through the CAP. For example, there are currently 8 phthalates that are approved for food contact use by FDA (request for information is currently open in the Federal Register), however a number of these are banned or restricted by the Consumer Products Safety Commission or the WA State Children’s Safe Products Act. PHSKC recommends that as part of the CAP, Ecology examine overlapping uses and differences in restrictions across routes of exposure that suggest the need for actions that to reduce cumulative exposure risks for sensitive populations like children. For example, banning or restricting the use of phthalates that are already banned or restricted in children’s products may be a reasonable action to propose in the CAP. This would limit exposures to phthalates that are known to be harmful to children from multiple routes. Similar proposed actions could be developed in the CAP for phthalates that have multiple exposure routes of concern to sensitive and vulnerable populations.

4) Phthalates in Health Care

Ecology and Health proposed more research in the health care arena, which seems warranted. However, it is not clear what the timeline for this recommended research proposed by Ecology would be, how it will be shared with the public if not included as a “state of phthalates in WA” in the CAP, and what the proposed use of that information could be. Furthermore, non-medical products were flagged as an exposure concern (e.g., menstrual products, breast pump accessories, diapers, and incontinence products) with no actions proposed for WA, only a mention of legislation in NY state and a statement that additional product testing “may” be warranted. Again, PHSKC would like to see more action oriented recommendations included in the CAP. As in the consumer products section, exposures to women of child bearing age and children are an important focus for action with these products, especially in the context of phthalates already banned in children’s products and routes of exposure not included for the phthalates in that ban.

5) Building Materials

The section on building materials does not discuss exposure concerns and estimate of health burdens on residents that receive or purchase donated or second-hand materials. PHSKC would like to see recommendations expanded beyond affordable housing projects. Many

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overburdened populations purchase the cheapest materials they can afford or receive donated materials, and are more likely to be exposed to phthalates through greater exposure to vinyl or plastic-based products. Populations included in the recommendations should include low income, immigrant and refugee renters and home owners.

6) Preferred purchasing

PHSKC supports the recommendation by Ecology to work with state agencies to track purchasing metrics and incorporate guidance and amended contracts to reduce the number of phthalate purchased by state agencies. PHSKC encourages Ecology to use the metrics information to develop materials that help other agencies and businesses across the state to also reduce phthalate exposures in their purchasing practices. One action that could be recommended is for Ecology to facilitate purchasing cooperatives for different sectors state-wide that reduce costs through subsidies or large volume purchasing when they choose safer products.

7) Food contact

The recommendations around phthalates in food contact materials, while good activities for the state to engage on, should be more developed into actions. As mentioned above in the consumer product section, the overlap of phthalates that are restricted, banned or of concern in children's products should at the very least be prioritized for removal from food contact materials as well. Ecology should be recommending these types of actions in the CAP at this time to protect sensitive and vulnerable groups.

8) Drinking water

Ecology should explore whether use of PVC piping and other new plastics based tubing in housing contributes phthalates into drinking water at the tap, similar to how we approach understanding the relationship between older plumbing and lead exposure in the home. The CAP should also discuss what may be known about phthalates in bottled water.

9) Daycare and early childcare facilities

While the recommendation to provide outreach materials to day care and early learning center providers is helpful in raising awareness, relying on this as the main strategy proposed to reduced phthalate exposures to children in child care settings transfers the burden of reducing exposures to the child care providers themselves. Ecology and Health should work with the Department of Children, Youth and Families (DCYF) to develop other mechanisms that remove phthalates from products, facilitate exchange of products known to be high in phthalates for safer products, and consider holistically the various exposure paths that young children, low income children, and children of color experience.

10) Items missing from the recommendations:

a. Occupational Exposures

Occupational exposures were also not addressed in the CAP, and PHSKC would like to see some information from Ecology included for construction workers and other professions that may have higher exposures to phthalates through their work, including

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a discussion of gaps in protections. “Take home” exposures, or chemical residues that can be transferred from the place of work to home via clothes, shoes or other means, should also be addressed (especially for children), for occupations where phthalate exposures can be high (e.g., construction, manufacturing).

b. Pathways analysis

PHSKC recommends that a comprehensive assessment of the major issues across different media and exposure routes be conducted to ensure staff working on specific issues are aware of potentially coinciding issues in other areas. The final plan should be able to bring together where pathways of exposure intersect as well as evaluate the major issues across areas so that the priorities for the state are clear and efficiencies are identified for addressing them.

Thank you again for the opportunity to comment. Do not hesitate to reach out to me with any questions.

Respectfully,

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