

Alliance for Automotive Innovation and Motor Equipment Manufacturers Association

Please see the attached comment letter.



August 31, 2022

Washington State Department of Ecology
Safe Products for Washington Program

Submitted via Public Comment Form: <https://hwtr.ecology.commentinput.com/?id=UuEMP>

Re: Preliminary Draft Rule Language for a Potential New Chapter: Safer Products Restrictions and Reporting (Chapter 173-337, Washington Administrative Code)

Dear Sir / Madam:

The Alliance for Automotive Innovation¹ (Auto Innovators) and the Motor & Equipment Manufacturers Association² (MEMA) appreciate the opportunity to provide comments on the Washington Department of Ecology's (Ecology's) preliminary draft rule language for a potential new chapter, Safer Products Restrictions and Reporting, at Washington Administrative Code chapter 173-337. We understand that this draft rule language includes restrictions and reporting requirements for the Safer Products for Washington program's first implementation cycle.

Given the brief opportunity provided for comment on this preliminary draft, our comments will be limited to requests for clarification of issues of importance to the motor vehicle sector. These include clarification that vehicle replacement parts are included in the motor vehicle exemption from priority product listing and further refinement of the definition for carpets and rugs. We plan on submitting detailed implementation recommendations during the proposal stage.

Our understanding of the language in the Pollution Prevention for Healthy People and Puget Sound Act is that motor vehicles are exempted from being identified by Ecology as a priority product: "Except as provided in (b) of this subsection, the department may not identify the following as priority consumer products under this section: . . . (vi) Motorized vehicles, including on and off-highway vehicles, such as

¹ Formed in 2020, the Alliance for Automotive Innovation is the singular, authoritative and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S. The organization, a combination of the Association of Global Automakers and the Alliance of Automobile Manufacturers, is directly involved in regulatory and policy matters impacting the light-duty vehicle market across the country. Members include motor vehicle manufacturers, original equipment suppliers, technology and other automotive-related companies and trade associations. The Alliance for Automotive Innovation is headquartered in Washington, DC, with offices in Detroit, MI and Sacramento, CA. For more information, visit our website <http://www.autosinnovate.org>.

² The Motor & Equipment Manufacturers Association (MEMA) represents more than 900 members that manufacture motor vehicle systems and component parts for the original equipment and aftermarket segments of the light vehicle and heavy-duty industries. Motor vehicle suppliers provide over 77 percent of the value of a new vehicle and more than 900,000 jobs are directly supported by the motor vehicle supplier industry in all 50 states. MEMA represents its members through four divisions: Automotive Aftermarket Suppliers Association (AASA); Heavy Duty Manufacturers Association (HDMA); MERA – The Association for Sustainable Manufacturing; and the Original Equipment Suppliers Association (OESA).

all-terrain vehicles, motorcycles, side-by-side vehicles, farm equipment, and personal assistive mobility devices.”³

We further understand the following, from the preliminary draft rule: at Chapter 173-337 does not apply to the following:

Part A General Requirements

(2) This chapter does not apply to:

- (a) Consumer products excluded from Chapter 70A.350 RCW.
- (b) Consumer products purchased outside of Washington state.
- (c) Consumer products transported or stored in Washington state as part of interstate commerce.
- (d) Consumer product replacement components manufactured before the effective date of the restriction.**
- (e) The recycling or disposal of existing stock.

For Flame Retardants

(ii) This subsection does not apply to:

- (A) Plastic external enclosures of electric and electronic products intended for outdoor use.
- (B) Plastic external enclosure parts that weigh less than 0.5 grams.
- (C) Inaccessible components, such as printed circuit boards and internal fans.**
- (D) Wires, cords, cables, switches, light bulbs, and connectors.**
- (E) Screens. This subsection does apply to the plastic enclosure surrounding the screen.
- (F) Consumer products that receive power only when they are hardwired into and permanently part of the fixed electrical wiring of a building. This includes wiring devices, control devices, electrical distribution equipment, and lighting equipment.
- (G) Internal components that are removable and replaceable, but not accessible once the product is in its fully assembled and functional form.**
- (H) Products regulated by the FDA as medical devices.⁴

While we understand motor vehicles to be exempted from the regulations, it is not clear to us that independently sold replacement parts are also exempted. Our comments arise from that uncertainty.

I. Automotive Replacement Parts Should be Exempt from Priority Product Designation

We request that Ecology clarify that as a logical extension of the exemption for motor vehicles, replacement parts for motor vehicles are also exempt from priority product designation. The initial manufacture of replacement parts coincides with the vehicle start of production, and those parts must be available for a period of no fewer than 15 years after vehicle production ends, to repair a vehicle as produced. Motor vehicle replacement parts are the same parts that are used in the original vehicle – an exempted category under Chapter 70A.350 RCW.

³ RCW 70A.350.030.

⁴ Proposed WAC 173-337-015(2), WAC 173-337-112(1)(a) (emphasis added).

II. Scope of Coverage for Carpets and Rugs

The Pollution Prevention for Healthy People and Puget Sound Act is silent on the definition of carpets and rugs. The definition provided in this preliminary draft language is as follows: “This subsection applies to the following consumer products. (i) Carpets intended for indoor use or intended for outdoor use; (ii) Rugs intended for indoor use or intended for outdoor use, including carpeted mats.”⁵

This definition needs to be further clarified to explicitly focus on products marketed or intended for use as a floor covering in households or businesses. The definition of “carpet or rug” should not include floor coverings in finished products such as automobiles.

We recommend the approach that California has adopted for its Safer Consumer Products Program. It is:

“Carpets and rugs containing perfluoroalkyl or polyfluoroalkyl substances,” means any consumer product made from natural or synthetic fabric intended to be used as a floor covering inside commercial or residential buildings”

Notwithstanding [the above], “carpets and rugs containing perfluoroalkyl or polyfluoroalkyl substances” does not include: . . . Carpets and rugs intended solely for use inside airplanes, trains, ships, automobiles, light duty trucks, vans, buses, or any other vehicles, as well as aftermarket or replacement parts marketed solely for use in vehicles[.]⁶

This more precise definition is being adopted by most states considering regulation of carpets and rugs containing PFAS chemicals, and excludes carpeting used in vehicles as well as replacement parts marketed solely for use in vehicles.

We urge you to adopt these recommendations. If replacement parts are included as priority products, there will be significant disruption in the ability to repair vehicles in Washington state. Further clarification of “carpets and rugs” is necessary to exclude carpets and rugs in finished products sold in Washington.

We would be happy to discuss these recommendations further.

Sincerely,



Catherine Palin
Alliance for Automotive Innovation



Alex Boesenberg
Motor & Equipment Manufacturers Association

⁵ Proposed WAC 173-337-110(2)(a).

⁶ 22 CCR § 69511.4.