

January 19, 2024

Ms. Meredith Marshburn
Department of Ecology – HWTR
300 Desmond Drive Southeast
Lacey, Washington 98503

RE: Safer Products for Washington Cycle 1.5 PFAS Draft Regulatory Determinations Report

Dear Ms. Marshburn:

The Hazardous Waste Management Program in King County (Haz Waste Program) thanks you for the opportunity to comment on the Washington State Departments of Ecology (Ecology) draft regulatory determinations for the Safer Products for Washington Cycle 1.5, focused on per- and polyfluoroalkyl substances (PFAS). We very much appreciate Ecology's work to address PFAS in widely-used consumer products, which we see as an important public health and environmental concern.

The Haz Waste Program is a coalition of local governments comprised of King County, the City of Seattle, 37 other cities, and two tribes, all located in King County, Washington. Together the Program serves more than 2.3 million Washington state residents. The Haz Waste Program works to protect and enhance public health and environmental quality. We do this by reducing the threat posed by the production, use, storage, and disposal of hazardous materials, many of which are found in common household products and small businesses.

A primary focus of the Haz Waste Program is toxics in consumer products. We strive to identify effective strategies to reduce exposure to hazardous materials from consumer products among residents and workers and to reduce generation of hazardous waste in our jurisdiction. With this goal in mind, we provide the following comments to the draft regulatory determinations report:

The Haz Waste Program supports the proposed restrictions of PFAS in apparel, cleaning products, and auto washes. Consumer products are one of the most important and largest ongoing sources of PFAS exposure and environmental contamination in Washington State. PFAS is used in many products currently available for sale in Washington, and these products can eventually cause human exposure in homes and businesses and can contaminate our environment and natural resources. At the end of these products' lifecycles, they also contribute to contamination of our waste streams, leaving local governments and utilities to manage these toxic chemicals with corresponding costs and liability.

Restricting the use of PFAS in consumer products is the most effective strategy to protect people and environment from this source and is urgently needed in our state, especially when there are existing safer alternatives that are feasible and available in many products currently using PFAS.

Ecology should continue to aggressively use SPWA authority to restrict PFAS in consumer products.

With the PFAS-specific “Cycle 1.5” coming to an end, we encourage Ecology to maintain focus on restricting PFAS in additional product categories as the SPWA law is implemented and to continue to investigate the availability of safer, feasible alternatives for product categories in which reporting requirements are recommended in this draft report. Many manufacturers will not voluntarily remove PFAS from their product lines without regulatory pressure, even as our understanding of the significant environmental and public health impacts grows. For example, as shown in the market analysis of the draft report, no outdoor apparel companies have fully removed PFAS despite growing public commitments, underscoring the vital role of regulation.

To accelerate the removal of toxics in consumer products, Ecology should continue to restrict PFAS and other priority chemicals in sub-categories of products when relevant safer, feasible, and available alternatives are identified. Since some product categories are large and diverse, with PFAS and other priority chemicals possibly providing multiple functions, the Haz Waste Program supports Ecology’s decision to restrict PFAS in certain sub-categories (e.g., apparel) rather than waiting until alternatives are identified for every single product type within the larger category.

Ecology should clearly explain when certain functions of priority chemicals within a product category are exempted from their evaluations and regulatory determinations, such as the exemption of propellants containing PFAS in cleaning products. Text on page 27 of the draft report states, “We excluded propellants from this analysis because they are used across a variety of product categories, not just cleaning products.” We see this logic as a slippery slope since many functions of PFAS and other priority chemicals are likely to be relevant to multiple product categories. By this logic, propellants will never be evaluated because they will always exist in multiple product categories. That would be an unacceptable loophole. We would have liked to see more reasoning for this decision. For example, some estimation of how widely used PFAS is in propellants for this product category (if very few cleaning products contain PFAS from propellants, this would support its exemption). Based on the draft report, we are left wondering whether PFAS will continue to be a source of exposure from cleaning products after the proposed restrictions take place. We also wonder when PFAS in propellants would ever be evaluated, since SPWA is organized by product categories and not functions of the chemicals themselves. That said, we do support Ecology taking regulatory action on surfactants in cleaning products due to adequate availability of safer alternatives. We believe an explanation that Ecology didn’t have the time or capacity to evaluate alternatives for this function is reasonable, but, if that was a reason, we’d want that to be explicitly stated.

Ecology should restrict PFAS providing non-stick functionality in cookware. Our understanding is that a significant proportion of available cookware products do not contain any non-stick coating, such as stainless steel or cast-iron pots and pans that can be used with fats/oils to achieve similar non-stick performance. This suggests that PFAS are not necessary to meet non-stick performance requirements of cookware products and provides a rationale for restriction based on criteria set out in the regulatory determinations report for SPWA Cycle 1.¹ People have cooked food successfully for thousands of years

¹ See Appendix D. Criteria for Feasible and Available in the June 2022 Regulatory Determinations Report to the Legislature Safer Products for Washington, Cycle 1 ([Publication number 22-04-018](#))

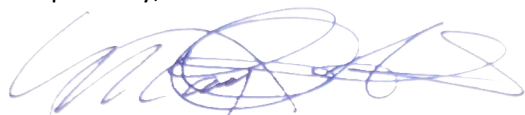
before PFAS were invented, and manufacturers still produce and sell PFAS-free cookware. The notion that PFAS is essential to cookware simply strains credulity. While PFAS can also provide chemical and physical durability functions within cookware products, we urge Ecology to specifically restrict PFAS providing a non-stick function in relevant cookware products (e.g., pots, pans, sheets, utensils) this cycle. Other PFAS functions can be exempted from the restriction and evaluated in later cycles.

Ecology should submit more administrative orders to obtain product ingredient information from manufacturers in future SPWA cycles. Obtaining manufacturer data on their usage of PFAS and other priority chemicals in their products is critical for effectively identifying safer, feasible, and available alternatives, and therefore, for the implementation of SPWA. We urge Ecology to increase usage of their authority under RCW 70A.350.030(4) to request data from manufacturers, that is, to promulgate more administrative orders in future SPWA cycles.

Ecology should obtain detailed ingredient information from manufacturers of products that are potentially safer alternatives. As noted in the draft report, Ecology was frequently unable to determine if PFAS-free products met the criteria for being a safer alternative due to lack of detailed ingredient information. This lack of transparency is therefore a foremost barrier to implementing SPWA. In the only publicly available example of an administrative order (i.e., for ortho-phthalates in vinyl flooring products), questions about alternatives that are used was optional. We believe manufacturers should be required to provide this information and, if necessary, Ecology should work to strengthen confidentiality protections for manufacturers such that it lowers the barrier of business-side reporting of these data. At minimum, Ecology should clarify its authority with respect to obtaining data from manufacturers, including data that may be considered confidential business information,

The Haz Waste Program thanks you for this opportunity. If you have questions regarding the comments above, please contact Dr. Trevor Peckham, Environmental Scientist, at tpeckham@kingcounty.gov.

Respectfully,



Maythia Airhart, Director
Hazardous Waste Management Program