

July 20, 2025
Stacey Callaway
Department of Ecology
Hazardous Waste and Toxics Reduction Program
PO Box 47600
Olympia, WA 98504-7600
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Re: Draft Rule for Cycle 1.5 of Safer Products Restrictions and Reporting

Dear Ms. Callaway,

On behalf of the Household & Commercial Products Association¹ (HCPA) and its members, we want to convey our comments on the proposed [revisions to Chapter 173-337 WAC](#) as Washington implements Cycle 1.5 of the Safer Products Restrictions and Reporting to adopt restrictions and reporting requirements related to the intentional use of per- and polyfluoroalkyl substances (PFAS). HCPA supports the efforts of the Washington Department of Ecology (Ecology) but would like to raise some key considerations to ease the implementation of the Safer Products regulations.

In general, PFAS are not intentionally added to the products manufactured by HCPA members. In the few situations where PFAS functionality is essential, companies have or are actively shifting away from relying on these chemistries where possible. We appreciate Ecology's efforts to move the marketplace, but caution that overly aggressive or non-implementable timelines for restrictions may lead to regrettable substitutions. We also appreciate Ecology's efforts to solicit and incorporate stakeholder feedback into the regulation throughout the process. We offer the following comments to help Ecology improve and refine the draft rule.

For years, HCPA has been a leading advocate for companies, helping them demonstrate their unwavering commitment to transparency, product stewardship, and sustainability. This commitment is aimed at protecting consumers and workers. It is highlighted by HCPA's support in the passage of the California Cleaning Products

¹ HCPA is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than \$180 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. HCPA represents products including disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for pets, home, lawn, and garden; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day.

Right to Know Act,² a significant step towards transparency. It mandates the online and on-label disclosure of intentionally added ingredients, including PFAS. This allows the public and the Department of Ecology to readily identify products with intentionally added PFAS. HCPA also maintains a Product Ingredients Dictionary³ to aid companies' disclosure efforts and includes information about product categories, chemical classes, and ingredient functions.

As noted previously, PFAS is not intentionally added to the vast majority of HCPA members' products, and this is particularly true for cleaning products. In the few instances that PFAS is intentionally added, it provides specific functionality, such as water repellency, stain resistance, or surface protection. We appreciate that the Preliminary Regulatory Analysis⁴ estimates a much smaller number of cleaning products containing PFAS in the marketplace than the earlier Regulatory Determinations Report to the Legislature⁵. In our estimation, the number of cleaning products within the scope of this regulation falls at the lower end of these estimates. Due to the recent implementation of PFAS restrictions on cleaning products in Minnesota, the limited number of cleaning products containing PFAS are required to have been withdrawn from the marketplace. Adding further credence to this point is that the recent Maine Board of Environmental Protection meeting, in which only two cleaning products applied for the Currently Unavoidable Use exemptions, and the applications were for components rather than the formulation itself.⁶ For these reasons, we anticipate that the proposed restrictions on cleaning products will have a minimal impact on the overall Washington marketplace; however, we are concerned that specialized cleaning product applications will present significant formulation challenges. In addition, we are concerned that portions of the proposed regulation require further clarity and that the regulatory requirements may be unnecessarily burdensome for manufacturers and the Department of Ecology.

HCPA is concerned with the lack of a clear definition and scope of cleaning products⁷ and strongly encourages Ecology to define "Cleaning Products" to describe the category for manufacturers and ease Ecology's enforcement efforts. The

² California Cleaning Products Right to Know Act, <https://legiscan.com/CA/text/SB258/id/1653091>

³ The HCPA Consumer Product Ingredients Dictionary, <https://www.productingredients.com>

⁴ Preliminary Regulatory Analyses for Chapter 173-337 WAC, Safer Products Restrictions and Reporting (Cycle 1.5: PFAS), <https://apps.ecology.wa.gov/publications/documents/2504027.pdf>

⁵ Regulatory Determinations Report to the Legislature: Safer Products for Washington Cycle 1.5 Implementation Phase 3, <https://apps.ecology.wa.gov/publications/documents/2404023.pdf>

⁶ See the Maine Board of Environmental Protection hearing at <https://www.maine.gov/tools/whatsnew/attach.php?id=13214911&an=1> and associated staff memo <https://www.maine.gov/dep/bep/2025/07-17-25/Chapter%2090%20Staff%20Memo.pdf>. The Board recommended that the application go forward to public comment and a formal vote on the staff recommendations at a future date.

⁷ Cleaning products are described as Priority consumer products. This subsection applies to cleaning products intended for household and institutional uses. This includes all-purpose cleaners, disinfectants, cleaners for glass, bathrooms, dishes, and tiles.

comparison table shows the differences in cleaning product definitions and FIFRA exemptions for the states with applicable PFAS prohibitions. New Mexico specifically exempts FIFRA products, while Maine and Minnesota exempt FIFRA product prohibitions until 2032 and provide a pathway for additional time under the Currently Unavoidable Use process. HCPA recommends that Ecology look to other states' efforts and how their law have defined cleaning products and other related categories.⁸

Comparison of ME, MN, NM, and WA definitions of cleaning products				
	Washington ⁹	Maine ¹⁰	Minnesota ¹¹	New Mexico ¹²
Definition	<p>This subsection applies to cleaning products intended for household and institutional uses. This includes all-purpose cleaners, disinfectants, cleaners for glass, bathrooms, dishes, and tiles.</p> <p>(ii) This subsection does not apply to:</p> <p>(A) Automotive washes.</p> <p>(B) Industrial cleaning products.</p>	<p>"Cleaning product" means a finished product used primarily for domestic, commercial or institutional cleaning purposes, including, but not limited to, an air care product, an automotive maintenance product, a general cleaning product and a polish or floor maintenance product.</p>	<p>"Cleaning product" means a finished product used primarily for domestic, commercial, or institutional cleaning purposes, including but not limited to an air care product, an automotive maintenance product, a general cleaning product, or a polish or floor maintenance product.</p>	<p>"Cleaning product" means a finished product used for general cleaning purposes, including:</p> <p>(1) a polish or floor maintenance product;</p> <p>(2) an air care product labeled for the intended use of enhancing or conditioning the indoor environment by eliminating unpleasant odors or freshening the air; and</p> <p>(3) an automotive maintenance product labeled for the intended use of maintaining the appearance of a motor vehicle, but does not include automotive paint or paint repair products;</p>

⁸ See the corresponding Maine, Minnesota and New Mexico PFAS statutes

⁹ Available at <https://ecology.wa.gov/getattachment/0a1b0d2c-90ce-434b-b910-309978c9053e/RDS-6288-2-For-Filing.pdf>

¹⁰ Available at <https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0610&item=3&snum=131>

¹¹ Available at <https://www.revisor.mn.gov/statutes/cite/116.943#stat.116.943>

¹² Available at <https://www.nmlegis.gov/Sessions/25%20Regular/final/HB0212.pdf>

FIFRA Products		Specifically exempts certain FIFRA products under current prohibitions, but FIFRA products are captured under the 2032 product restrictions ¹³	FIFRA products are captured under 2032 restrictions, but deferred to the Minnesota Department of Agriculture ¹⁴	Specifically excludes FIFRA products, along with other exemptions ¹⁵
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In particular, HCPA is concerned that the definition of Cleaning Products includes “disinfectants,” and more broadly, antimicrobial pesticides. HCPA cautions that the inclusion of cleaning products with disinfectant claims represents a significant expansion of the cleaning product category compared to other states and that this expansion will present several challenges to Ecology and the industry. The primary concern is that disinfectants are not cleaning products, but rather are EPA-regulated antimicrobial pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Disinfectants play a crucial role in public health, controlling the spread of disease and reducing the presence of harmful microbes, such as influenza or the virus that causes COVID-19. Additionally, all-purpose cleaners with pesticidal claims would be subject to FIFRA regulation.¹⁶ It should also be noted that the time necessary to meet EPA’s registration requirements for approval of an alternate antimicrobial pesticide would vastly exceed the proposed timelines without even considering the time necessary for reformulation.

Adding further complexity and the need for workable definitions is that disinfectants are registered pesticides that have a multitude of pesticide claims on the master label, which is reviewed and approved by the EPA; however, only a subset of these claims will be used on the actual market label of the product. This is by design and provides flexibility for companies to highlight specific uses of a product or market-

¹³ F. A veterinary product intended for use in or on animals, including diagnostic equipment or test kits and their components and any product that is a veterinary medical device, drug, biologic or parasiticide or that is otherwise used in a veterinary medical setting or in veterinary medical applications that are regulated by or under the jurisdiction of:

- (1) The United States Food and Drug Administration;
- (2) The United States Department of Agriculture pursuant to the federal Virus-Serum-Toxin Act; or
- (3) The United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, except that any such products approved by the United States Environmental Protection Agency pursuant to that law for aerial or land application are not exempt from this section;

¹⁴ See Minnesota Department of Agriculture PFAS in Pesticides - Final Report to the Legislature (<https://www.lrl.mn.gov/docs/2025/mandated/250302.pdf>)

¹⁵ See Section 3 A. Exemptions at <https://www.nmlegis.gov/Sessions/25%20Regular/final/HB0212.pdf>

¹⁶ EPA maintains a FAQ for determining whether a product is a Cleaning product or pesticide, <https://www.epa.gov/pesticide-registration/determining-if-cleaning-product-pesticide-under-fifra>

specific uses, or address key pathogens with a given product. Products can also be marketed under alternative brand names or sub-registered to other companies. It is possible that multiple products can be in the marketplace with differing marketing labels and/or branding while relying upon the same approved master label for these products. Additionally, products with pesticidal and cleaning claims are required to provide detailed directions for use for both claims, which must include the specific directions of use for that particular product. It should be noted that PFAS functionality is rarely necessary for antimicrobial products, as demonstrated by Minnesota's identification of active ingredients containing PFAS, none of which are approved for antimicrobial pesticides.¹⁷ This emphasizes the importance of fully understanding and reading the product label, both on the product itself and the master label, to ensure a comprehensive understanding of how the product is intended to be used.

In addition, Ecology could benefit from reviewing the definitions under EPA's National Volatile Organic Compound Emission Standards for Consumer Products¹⁸ and the California Air Resources Board (CARB) General Consumer Products Regulations¹⁹. In our experience, having well-defined product categories has helped manufacturers comply while developing efficacious products and providing regulators with appropriate tools for enforcement. Many companies are already familiar with this approach, which would provide a well-managed way to ensure that companies properly formulate products and meet compliance requirements. For example, the term "all-purpose cleaner" is ambiguous, as our members more commonly formulate products for a specific category of cleaner or general-purpose cleaners as defined by CARB.²⁰

For these reasons above, HCPA recommends that Ecology remove the references to "disinfectants" from the cleaning products category. However, in the event that

¹⁷ The Minnesota Department of Agriculture maintains a list of pesticide active ingredients at <https://www.mda.state.mn.us/environment-sustainability/pfas-pesticide-active-inert-ingredients>

¹⁸ See <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-59/subpart-C/section-59.202>

¹⁹ See [https://govt.westlaw.com/calregs/Document/I9CE560501C2111ED89B8BED60A034ABF?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I9CE560501C2111ED89B8BED60A034ABF?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

²⁰ (59) "General Purpose Cleaner" means:

(A) for products manufactured before January 1, 2015: a product labeled to clean a variety of hard surfaces. "General Purpose Cleaner" includes, but is not limited to, products designed or labeled for general floor cleaning, kitchen, countertop, or sink cleaning, and cleaners designed or labeled to be used on a variety of hard surfaces such as stovetops, cooktops, or microwaves.

(B) for products manufactured on or after January 1, 2015: a product that is designed or labeled to clean hard surfaces in homes, garages, patios, commercial, or institutional environments. "General Purpose Cleaner" includes products that clean kitchens, sinks, appliances, counters, walls, cabinets or floors and products that claim to clean a variety of similar surfaces such as plastics, stone or metal. "General Purpose Cleaner" does not include "Single Purpose Cleaner" or "Furniture Maintenance Product." See [https://govt.westlaw.com/calregs/Document/I9CE560501C2111ED89B8BED60A034ABF?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I9CE560501C2111ED89B8BED60A034ABF?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

cleaning products with disinfectant claims are retained within the category, HCPA recommends the inclusion of a definition that clearly indicates the products within the scope of the regulation. Our recommendation is for Ecology to look closely at the California Cleaning Products Right to Know Act for an existing definition that HCPA members are familiar with and that has been adopted by industry.²¹

HCPA appreciates the references to EPA's Safer Choice program, as HCPA and its members have long been supporters of the program and its efforts to drive the marketplace. It is very likely that many of the certified cleaning products noted in the Regulatory Determination Report are those of HCPA members.²²

HCPA is concerned that assumptions with respect to alternatives may be over-generalized. While we agree that the vast majority of cleaning products do not rely upon PFAS technology, those that do rely upon it for a key functionality make reformulation inherently more difficult and expensive. This is especially true for consumer-facing cleaning products, which either have never utilized PFAS functionality or have long since reformulated to other ingredients. However, for specialized cleaning applications, especially in the industrial space, PFAS functionality can provide an essential function that cannot be readily replaced. We recognize that Industrial cleaning products are exempted from current activity, but the term is not defined, nor is there an indication as to when or whether these products will be addressed.²³ This would be analogous to the Department of Ecology's analysis of water-resistant apparel in the Preliminary Regulatory Analysis and may require an individualized evaluation of each cleaning product use to determine the required level of performance, the rationale behind it, and whether alternatives to PFAS are available.²⁴

HCPA cautions that while the Safety Data Sheet (SDS) can provide robust information on the hazards of a product and ways workers can protect themselves, we believe that the Department would be better served by utilizing the ingredient disclosures by companies as a result of California's Cleaning Product Right to Know Act. Under OSHA's Hazard Communication Standard²⁵ (HCS), only hazardous substances defined by the HCS must be disclosed on the SDS at various thresholds

²¹ See <https://legiscan.com/CA/text/SB258/id/1653091>

(j) "General cleaning product" means a soap, detergent, or other chemically formulated consumer product labeled to indicate that the purpose of the product is to clean, disinfect, or otherwise care for fabric, dishes, or other wares; surfaces including, but not limited to, floors, furniture, countertops, showers, and baths; or other hard surfaces, such as stovetops, microwaves, and other appliances.

²² The Regulatory Determination Report notes "Over 2,000 products are currently certified. Among certified cleaning products are more than 300 all-purpose cleaners, more than 100 dish cleaners, 80 bathroom cleaners, and 15 car care products."

²³ These products appear to have been referred to as "Cleaning products used during manufacturing activities in the Preliminary Draft Rule.

²⁴ Glüge, J., London, R., Cousins, I. T., DeWitt, J., Goldenman, G., Herzke, D., ... & Scheringer, M. (2021). Information requirements under the essential-use concept: PFAS case studies. *Environmental science & technology*, 56(10), 6232-6242.

²⁵ OSHA Hazard Communications Standard, <https://www.osha.gov/hazcom/rulemaking>

(typically 1% or 0.1%). This is because OSHA is concerned about the workplace hazards presented to end-users. In our view, a more effective approach is to utilize California's Cleaning Product Right to Know Act, which requires the disclosure of *all intentionally added ingredients*, regardless of concentration, and the presence of specified contaminants or byproducts at or above 100 ppm.²⁶

HCPA reiterates the significant concern that the proposed rule focuses on both total fluorine and lacks a *de minimis* threshold, which would trigger Ecology's presumption of intentionally added PFAS and leave manufacturers to rebut this presumption. Since total fluorine measurements cannot distinguish between *different* fluorinated compounds, this testing approach will likely capture non-PFAS-containing ingredients or other sources of fluorine. In addition, HCPA is concerned that the lack of a *de minimis* threshold would cause significant challenges for manufacturers to rebut Ecology's presumption of intentionally added PFAS. It is unlikely that a product formulated with intentionally added PFAS would be below the 100-ppm threshold. We suggest that total organic fluorine is a more effective screening method, measured according to standard quality control procedures and analytical validation, in combination with a *de minimis* level of 100 parts per million (ppm) for total organic fluorine, consistent with Washington's Children's Safe Products Act (CSPA) for contaminants.²⁷ Implementing this standard would align the Safer Products for Washington program with other standards for regulating chemicals of concern.

HCPA is concerned that the definition of "Credible evidence" that was in the preliminary draft was not carried over to the proposed rule. HCPA encourages its inclusion and for Ecology to develop guidance and provide examples to assist manufacturers in substantiation, as well as to support compliance and enforcement by Ecology.

HCPA remains concerned with the inclusion of the phrase "or in the manufacturing of the product" in the definition of "intentionally added." The term is undefined and ambiguous, and HCPA recommends the removal of the phrase.

HCPA recommends that the compliance dates for reporting incorporate a manufacture-by date, similar to Ecology's approach to restriction dates. For both reporting and product restriction purposes, manufacturers can control the manufacture-by date of their products, but lack direct line of sight to product sales information once a product has been released to distribution or retail channels. HCPA agrees with the compliance timelines in the proposed rule, provided that the manufactured by dates apply to both the restrictions and reporting, with the caveat that disinfectants are not within the scope of cleaning products as described earlier. HCPA strongly recommends that if disinfectants are included, additional time be provided for reformulation, and EPA regulatory approval is strongly encouraged.

²⁶ See <https://legiscan.com/CA/text/SB258/id/1653091> for details on on-label and online disclosure.

²⁷ See CSPA Reporting at <https://ecology.wa.gov/regulations-permits/reporting-requirements/childrens-safe-products-act-reporting>

HCPA appreciates the determination that regulating PFAS used as a propellant is not warranted and that, at this time, it would not as effectively have met the goal of considering the availability and feasibility of safer alternative products. HCPA appreciates the exemption that the restrictions and reporting do not apply to products with PFAS used as propellants. We encourage Ecology to develop guidance for these products to ease compliance.

HCPA appreciates the opportunity to provide comments and looks forward to working with Ecology throughout the regulatory process. Do not hesitate to contact me with any follow-up questions or clarifications.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Steven Bennett', with a long horizontal line extending to the right.

Steven Bennett, Ph.D.

Executive Vice President, Scientific & Regulatory Affairs