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Attached are comments on the Safer Products for Washington Cycle 1.5 PFAS Rulemaking (Chapter 173-337 WAC). These comments were prepared by, and are being submitted on behalf of, one of Farella Braun Martel LLP's clients.

Comments on the Chapter 173-337 WAC: Safer Products Restrictions and Reporting (Cycle 1.5: PFAS)

July 2025

We would like to express our gratitude for being given the opportunity to provide comments during the public consultation on the restrictions and reporting requirements related to the intentional use of per- and polyfluoroalkyl substances (PFAS) (Chapter 173-337 WAC).

We propose clarifications regarding the definition and scope of priority consumer products in relation to these requirements in Washington State. The current definitions and applicability are ambiguous, which makes the extent of the regulations unclear. We therefore propose revisions considering the following points. We believe that further clarification of the proposed rules could help to achieve the objectives of these regulations.

1. Clarification of the definition of priority consumer products

The current definitions of "Apparel and accessories," "Cookware and kitchen supplies," and "Gear for recreation and travel" include specific examples of individual products. By limiting to these examples, the scope of regulation is clarified, there is no room for interpretation. Specifically, we propose revising the wording as follows:

Current description: "Apparel and accessories" means articles of clothing worn or in-tended to be worn by a person. Apparel and accessories include, but are not limited to, costumes, dresses, formal wear, gloves, hats, jackets, leggings, pants, scarves, shirts, skirts, socks, swimwear, and underwear (including reusable underwear for incontinence and reus-able period underwear).

Revised draft: "Apparel and accessories" means articles of clothing worn or in-tended to be worn by a person. Apparel and accessories include only the following items: costumes, dresses, formal wear, gloves, hats, jackets, leggings, pants, scarves, shirts, skirts, socks, swimwear, and underwear (including reusable underwear for incontinence and reus-able period underwear).

[Cookware and kitchen supplies]

Current description: "Cookware and kitchen supplies" means durable houseware items used to prepare, dispense, or store food, foodstuffs, or beverages. Cookware and kitchen supplies include, but are not limited to, baking molds, baking sheets, bowls, cooking utensils, grills, pans, pots, rice cookers, skillets, trays, and waffle makers.

Revised draft: "Cookware and kitchen supplies" means durable houseware items used to prepare, dispense, or store food, foodstuffs, or beverages. Cookware and kitchen supplies includes only the following items: baking molds, baking sheets, bowls, cooking utensils, grills, pans, pots, rice cookers, skillets, trays, and waffle makers.

[Gear for recreation and travel]

Current description: "Gear for recreation and travel includes, but is not limited to, backpacks, bags, climbing ropes, luggage, panniers, sleeping bags, sleeping pads, tents, and totes.

Revised draft: "Gear for recreation and travel includes only the following items: backpacks, bags, climbing ropes, luggage, panniers, sleeping bags, sleeping pads, tents, and totes."

2. Clarification of the applicability of priority consumer products

The current applicability of "Footwear" and "Ski waxes" include specific examples of individual products. As with the above revision of the definitions, limiting these to specific examples clarifies the scope of regulation and eliminates room for interpretation. Specifically, we propose revising the wording as follows:

[(7) Footwear (a)(i)]

Current description : Priority consumer products. This subsection applies to footwear made from leather, natural textiles, synthetic textiles, or technical textiles. Footwear includes items intended to protect the foot. Footwear includes, but is not limited to, boots, sandals, shoes, and water shoes.

Revised draft : Priority consumer products. This subsection applies to footwear

made from leather, natural textiles, synthetic textiles, or technical textiles. Footwear includes items intended to protect the foot. Footwear includes only the following items: boots, sandals, shoes, and water shoes.

[(16) Ski waxes (a)]

Current description : Priority consumer products. This subsection applies to ski waxes. Ski waxes include, but are not limited to, hot wax, spray wax, rub-on wax, and related tuning products for snow runners like skis and snowboards.

Revised draft : Priority consumer products. This subsection applies to ski waxes. Ski waxes include only the following items: hot wax, spray wax, rub-on wax, and related tuning products for snow runners like skis and snowboards.

For example, California's "§108945–108947 ([AB652](#))," which regulates juvenile products intentionally containing PFAS, has been amended by "§108075–108087,108945 ([AB347](#))" to clarify the scope. Consequently, the phrase "but not limited to" has been removed, clarifying the definition of children's products. This makes the regulations easier to understand for businesses and consumers. To ensure accurate restrictions and reporting, room for interpretation should be avoided.

We believe that the above proposals will clarify the definition and applicability of priority consumer products in Washington State's PFAS regulation proposal, enabling more accurate compliance with the regulation. We would appreciate your consideration of these proposals.