

The Washington Department of Ecology is working on Safer Products for Washington cycle 1.5, which focuses on implementing our 2021 PFAS Chemical Action Plan.¹ We held webinars on December 13 and 14, 2023, to provide an overview of the cycle 1.5 draft regulatory determinations report. We also gave an introduction to rulemaking and answered questions about the comment process.

This document includes some of the questions asked during both webinars, as well as answers from the Safer Products for Washington team. At the end of this document, you'll find a link to the presentation slides and other resources shared during the webinars. Find more information about Safer Products for Washington on the [stakeholder webpage](#).² If you have additional questions, please contact us at SaferProductsWA@ecy.wa.gov.

General Safer Products for Washington questions

Q: Will you be making any recommendations to the Legislature about addressing the ingredient data challenge, such as request data gathering authority earlier in the process, as may be needed to facilitate the regulatory determinations?

A: We don't have plans to make a request to the Legislature. The Safer Products for Washington law only passed in 2019, and we're still learning as we implement it. At this point, we wouldn't be planning to ask the Legislature for anything. It's an intensive process to obtain permission for agency request legislation. We probably won't request anything unless something causes us to reevaluate that.

Q: Does Washington state have a procurement policy addressing PFAS in products the state buys?

A: Yes, the Department of Enterprise Services addresses PFAS in several product categories in [Washington's green purchasing guide and contract specifications](#)³ guidelines.

Q: ePTFE is used in heart valve patches/medical devices. Is healthcare extremely involved in this conversation? I haven't heard much from that side.

A: Other organizations have moved to restrict it (PFAS) in everything. That's not the approach Safer Products for Washington takes. We go product by product. Nothing we're looking at would affect PFAS in these medical products. They haven't been part of this conversation.

Q: Any reason why the exemptions for health products?

¹ <https://apps.ecology.wa.gov/publications/SummaryPages/2104048.html>

² https://www.ezview.wa.gov/site/alias__1962/37555/safer_products_for_washington.aspx

³ <https://des.wa.gov/purchase/how-use-statewide-contracts/green-purchasing>

A: It isn't really an exemption. We look at specific product groups, then look for alternatives. Safer Products for Washington doesn't do everything all at once. We have a targeted approach to specific products and look for safer alternatives that work for those products. Our statute contains specific exemptions for components that are regulated by the FDA.

Comment: PFAS have different properties. So, please do not over generalize the definition of PFAS. Just because some PFAS are hazardous, it doesn't mean that all are. As the firefighter gentleman indicated, fluoropolymers such as ePTFE are not soluble, not bioavailable, nontoxic, so should be evaluated very differently than PFOA. The German government stated that they will not consider PFAS as an entire group. They will focus on toxicological risk assessment when making decisions.

A: To clarify, the authorizing statute, [Chapter 70A.350 RCW](#),⁴ defines PFAS. We do implement it as a class. We know the carbon-fluorine bond is very hard to break and that the more we learn about PFAS we see more environmental and health concerns.

Our approach is focused on hazard assessment, not risk assessment. We ask ourselves, "Can we use something better or avoid it all together?" That way we don't focus on cleaning up PFAS contamination but removing it from the products. There are some details in our report, it is supported by the science, and it protects the environment.

Q: Is there a concern about inconsistency? You may ban a material, e.g., ePTFE, in one application because it "isn't safe" yet leave it in place in another?

A: The Safer products for Washington law doesn't try to ban PFAS everywhere. That's not what Safer products for Washington does. We're looking at specific products, for safer, feasible, and available options. It's not a "safe/not safe" conversation. It's a "where can we do better since we know that there is PFAS in the environment" conversation. See our PFAS [chemical action plan](#)⁵ for more details.

Q: You mention cleaning up from PFAS contamination. What are some of those sites in Washington state, and what does that clean up consist of?

A: You can access [the Cleanup and Tank search map](#)⁶ to see where PFAS has been cleaned up in Washington state. You can read about it in the chemical action plan, where we provide a summary.

⁴ <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.350>

⁵ <https://apps.ecology.wa.gov/publications/summarypages/2104048.html>

⁶ [https://apps.ecology.wa.gov/cleanupsearch/reports/cleanup/all?ContaminantType=Per-%20and%20polyfluoroalkyl%20substances%20\(PFAS\)](https://apps.ecology.wa.gov/cleanupsearch/reports/cleanup/all?ContaminantType=Per-%20and%20polyfluoroalkyl%20substances%20(PFAS))

Q: Will Ecology's definition of cookware be in-line with the DTSC/California AB-1200 cookware?

A: We will consider California's definition as we finalize.

Rulemaking

Q: Any comment in relation to the EPA ruling that was released in October?

A: There will be PFAS reporting at a federal level. Our state's definition is slightly different from the Environmental Protection Agency's definition, though there will be some overlap.

Q: For the reporting requirements of PFAS, is there a concentration level for reporting, or just presence? Is it restricted to intentionally added PFAS chemicals?

A: This will be determined during rulemaking. We will likely start from the rule we developed for cycle 1. For more information about this, look at [requirements for reporting](#)⁷ in our statute.

Q: For the products that are to have restrictions, when will the bans take effect? Is it useful to start them at the same time as those from cycle 1, i.e., 2025-2026?

A: We're in the regulatory determinations phase, where we determine whether we require reporting, restriction, or take no action, on the products we have identified.

The rulemaking deadline is to adopt rules by December 2025. Those restrictions can't go into effect for 365 days. So, the earliest these restrictions would go into effect would be late 2026. There will be lots of time for input on rulemaking on that compliance schedule. We'll work with people to comply, as we want manufacturers to be successful in getting toxics out of products.

Q: For manufacturers, setting a compliance date that is based on a manufacturing date is preferred. Has this been considered?

A: It's something we take into consideration during the rulemaking. We aren't there yet, but when we did our rule for cycle 1, we did consider a manufacturing date. The rulemaking process deadline is December 2025.

Q: When you set the compliance deadlines in the rulemaking, will you take into account other state requirements and the EU phase out schedule?

A: We do look at other regulations as we go through the rulemaking process. In the [draft regulatory determinations report](#),⁸ we have a section that lists the other

⁷ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-337-060>

⁸ <https://apps.ecology.wa.gov/publications/summarypages/2304062.html>

states and authoritative agencies and some of the efforts in the private sector. If you're aware of others we have missed, we welcome your input.

Q: Do repairs, whether it is for warranty or refurbishment, get an exemption? For example: A customer needs harnessing replaced on a backpack. Can that harness component contain PFAS? We would like to avoid wasting currently on-hand inventory of these repair/replacement parts.

A: That would be determined during the rulemaking process for cycle 1.5, but we can provide an example of how we addressed something similar in the past. Under [WAC 173-337-110](https://app.leg.wa.gov/WAC/default.aspx?cite=173-337-110),⁹ during cycle 1 rulemaking we gave a timeline for when the product was produced but not for when the replacement parts were produced. It doesn't apply to a repair part or replacement part that was made to refurbish a priority consumer product that was manufactured before January 1, 2025.

Apparel, gear, and firefighting PPE

Q: When you perform alternative studies, do you look at longevity (durability) and overall environmental impact of the alternatives. As an example, one might have to use five of the alternatives compared to one of the PFAS item. E.g., you would have to use-up five raincoats with alternative, instead of one and this would create lots of waste (trash). Similarly, one might have to wax five times more often. Most likely people are not going to do that much, and we will have rusting in cars. This will result in people changing their car more often. This also creates waste. Lack of proper wax will also make the cleaning of the car much more difficult, resulting in usage of excess cleaning supplies, like detergents. So, alternative analysis has to look at the OVERALL impact. Thanks.

A: In our statute, we're looking at hazard reduction, feasibility, and availability. This isn't a full alternatives assessment because we want to show there's a path towards safer, feasible, and available alternatives. If you have data supporting that a proposed alternative wouldn't be able to adequately perform, providing that data would be helpful to us.

Around the wax examples, we're proposing a reporting requirement, not a restriction at this point.

Q: Most departments use the GORE instead of Stedfast and our concern is PFAS with the new gear we are buying. The last PFAS remaining thing is the moisture barrier. Is the ePTFE barrier being targeted? Will the new material be tough enough and breathable? Is GORE's ePTFE's moisture barrier itself being

⁹ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-337-110>

targeted as a PFAS product? Our gear (Kirkland Fire) is out of PFAS containing DWRs. The final source of PFAS in our gear is the ePTFE barrier.

A: We're looking for alternatives to all the uses of PFAS in firefighting gear – this includes DWRs and the moisture barrier. At this time, we're requiring reporting, not a restriction, as we couldn't complete our analysis to assess if alternatives are safer due to a lack of transparency in the ingredients and materials. If we moved towards a restriction, we would need to identify safer, feasible, and available alternatives. We haven't identified safer, feasible, and available alternatives in any of the uses in firefighting gear.

We couldn't complete our analysis due to a lack of transparency about the ingredients and materials being used as alternatives.

Comment: If ePTFE is targeted, you might be able to switch to GORE's new EPE membrane technology.

Q: What's the entity that would conduct the tests to make sure we aren't overheating? Thinking about the definition for safer, I understand your definition of safer is related to chemicals, but if we are sacrificing heat retention-who is going to do the test to make sure we are not overheating?

A: Our standard of safer, feasible, and available does look at National Fire Protection Association (NFPA) requirements to make sure it meets the standards mentioned. In the [Safer Products for Washington statute](#),¹⁰ safer is defined as "less hazardous than the existing chemical or process." In addition, it has to be feasible and available to be an alternative. Feasible means it has to be usable for that function. If we can get enough transparency to understand what is in firefighting personal protective equipment (PPE), we may be able to identify safer, feasible, and available alternatives.

It isn't a restriction on PFAS in firefighting equipment, just a reporting requirement. To date, we haven't identified products that meet those requirements.

Q: It seems like if we are worried about the dangers of ePTFE on human health, the studies should START with putting said dangerous materials into human bodies. Is that research being done somewhere? Do you know if there is accessible data from those studies?

A: Typically, the way we look at impacts to human health is through exposure. Then we look at those exposures in the context of the hazards to understand the potential impact. There is a lot of work being done on exposure, including firefighter exposures. It's in the firefighting PPE chapter of the [draft regulatory](#)

¹⁰ <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.350>

[determinations report](#).¹¹ Then we look at those in the context of the hazards we see in structural similarities data. Sometimes we look at novel approach studies because we want to reduce animal studies when possible. Our approach is to think about this in a bigger way, to look at where safer, feasible, and available alternatives are possible.

Q: Identifying suitable alternatives, you mentioned you had not found a suitable alternative to firefighting PPE. Will Ecology be making the assessment for suitable or feasible alternative? With motorcycles you have a lot of protective equipment that is not just garments. There are protective equipment helmets, body armor, boots. I don't know if you have the expertise to conduct that testing because they are very intensive. I want to understand if Ecology will be doing helmet safety testing or if you will rely on industry testing.

A: Helmets aren't included in our PPE assessments, which focus on firefighting. For products related to the motorcycle industry, we're focused more on apparel and the function of PFAS within the product. Helmets are out of scope.

We rely heavily on industry standards for PPE. We conduct the assessment of alternatives around feasibility. If a chemical is less hazardous and can meet standards, then we rely on stakeholders to see if this is feasible and to let us know if there are applications where we missed something. We involve our stakeholders in the evaluation process.

Cleaning products

Q: Does Ecology intend the cleaning products category to extend to industrial solvents?

A: Industrial solvents aren't included in the cleaning product category, but janitorial cleaning products are included.

Q: Do you disclose which chemical formulations in cleaning products you've discovered contain PFAS? You've explained it relates to PFAS that have been unintentionally added to cleaning products, does that mean it is a byproduct of a specific ingredient? Will you disclose which ingredients beyond just labelling them as "PFAS"?

A: To clarify, we're looking at where PFAS was intentionally added, not contaminants. A lot of the work looking at PFAS was done in our [chemical action plan](#).¹² In this phase, we focus on what PFAS is doing in cleaning products and the alternatives to PFAS, rather than focusing on specific cleaning products. As

¹¹ <https://apps.ecology.wa.gov/publications/summarypages/2304062.html>

¹² <https://apps.ecology.wa.gov/publications/summarypages/2104048.html>

we found safer, feasible, and available alternatives, we've determined a restriction. Please send an email if you have specific questions.

Waxes

Q: Wouldn't use of PFAS on skis contaminate the snow – then the ground and atmosphere when snow melts? People have been skiing for a long time without PFAS products.

A: Your comment is in line with what we found in our report. There are PFAS-free ski wax products. Based on our alternatives research, [Nikwax](#)¹³ was the only manufacturer with a PFAS-free alternative that was willing to share their data with us. The Nikwax product is a safer alternative to PFAS. We don't know what would replace PFAS in the other wax products. PFAS contamination from ski wax does get into the environment.

Q: For what ski-related applications does the identified safer Nikwax product not provide adequate/appropriate performance?

A: Nikwax is a niche product for trekking, not for downhill or cross-country skiing. The skiing industry, as a whole, is moving away from PFAS products. We can track the phaseout of PFAS in ski waxes using the reporting requirement while conserving resources. We're proposing reporting requirements, rather than a restriction, for ski waxes, as we're unable to get information on other alpine and Nordic formulations to assess if they're safer.

Q: Are there treatment processes for PFAS at wastewater treatment plants? How do you plan to do source water reduction of PFAS for WWTPs?

A: PFAS isn't 100 percent mitigated during wastewater treatment, which is one of the reasons source prevention is so important. To prevent the use of PFAS at the source, we're looking at products released directly into the environment, like car washes and waxes, as well as cleaning products, which go down the drain.

Resources

Below is a list of resources shared during the December 13 and 14, 2023, Safer Products for Washington cycle 1.5 PFAS Chemical Action Plan Implementation webinars.

- [2021 PFAS Chemical Action Plan](#)¹⁴
- [2022 Cycle 1 Phase 3 Regulatory Determinations Report to the Legislature](#)¹⁵

¹³ <https://www.nikwax.com/en-us/products/waterproofing/ski-skin-proof/>

¹⁴ <https://apps.ecology.wa.gov/publications/SummaryPages/2104048.html>

¹⁵ <https://apps.ecology.wa.gov/publications/SummaryPages/2204018.html>

- [2023 Cycle 2 Phase 1 Draft Priority Chemicals Report](#)¹⁶
- [June 2023 webinar on Cycle 2 Phase 1 Draft Priority Chemicals Report](#)¹⁷
- [August 2023 webinar on Cycle 1.5 PFAS Chemical Action Plan Implementation](#)¹⁸
- [2023 Cycle 1.5 Phase 3: Draft Regulatory Determinations Report to the Legislature](#)¹⁹
- [December 2023 webinar on Cycle 1.5 Draft Regulatory Determinations](#)²⁰
- [Safer Products for Washington restrictions and reporting](#)²¹
- [Safer Products for Washington requirements for reporting](#)²²
- [Safer Products for Washington restrictions and reporting current phases](#)²³
- [Pollution Prevention for Healthy People and Puget Sound Act](#)²⁴
- [Safer Products for Washington stakeholder webpage](#)²⁵
- [Safer Products for Washington mailing list](#)²⁶
- [Online comment form](#)²⁷
- [Nikwax ski wax](#)²⁸
- [Washington State Department of Enterprise Services green purchasing guide and contract specifications](#)²⁹
- [Ecology's PFAS in food packaging webpage](#)³⁰
- [Washington Department of Ecology PFAS Cleanup sites](#)³¹

¹⁶ <https://apps.ecology.wa.gov/publications/SummaryPages/2304038.html>

¹⁷ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/June%202023_Cycle2%20Phase%201_Pre%20presentation_Revised.pdf

¹⁸ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/August2023_PFASCycle_Presentation_Updated.pdf

¹⁹ <https://apps.ecology.wa.gov/publications/summarypages/2304062.html>

²⁰ https://www.ezview.wa.gov/Portals/_1962/Documents/saferproducts/December2023_PFASCycle_Presentation.pdf

²¹ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-337>

²² <https://app.leg.wa.gov/WAC/default.aspx?cite=173-337-060>

²³ <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-337-nov2023>

²⁴ <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.350.010>

²⁵ https://www.ezview.wa.gov/site/alias__1962/37555/safer_products_for_washington.aspx

²⁶ https://public.govdelivery.com/accounts/WAECY/subscriber/new?topic_id=WAECY

²⁷ <https://hwtr.ecology.commentinput.com/?id=UguCSsFZD>

²⁸ <https://www.nikwax.com/en-us/products/waterproofing/ski-skin-proof/>

²⁹ <https://des.wa.gov/purchase/how-use-statewide-contracts/green-purchasing>

³⁰ <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/addressing-priority-toxic-chemicals/pfas/food-packaging>

³¹ [https://apps.ecology.wa.gov/cleanupsearch/reports/cleanup/all?ContaminantType=Per-%20and%20polyfluoroalkyl%20substances%20\(PFAS\)](https://apps.ecology.wa.gov/cleanupsearch/reports/cleanup/all?ContaminantType=Per-%20and%20polyfluoroalkyl%20substances%20(PFAS))