



January 22, 2024

Katrina Lassiter
Program Manager
Hazardous Waste and Toxics Reduction Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7696

Dear Ms. Lassiter,

Thank you for the opportunity to provide input on the Cycle 1.5 Draft Regulatory Determinations Report to implement the landmark 2019 Safer Products for Washington law, which is the strongest law in the nation to address harmful chemicals in products.

In 2022, the Washington state legislature and governor passed a law compelling the Department of Ecology to swiftly ban PFAS in more products. While we commend Ecology for the restrictions proposed, so far, Ecology is failing to fulfill its duty under that law.

We support the proposed restrictions on PFAS in cleaning products and automotive washes. Ecology has clearly demonstrated that safer, feasible, available alternatives exist for these applications.

We further support the proposed restriction on PFAS in apparel, but we disagree with the reporting requirement for apparel “intended for extended use by experts or professionals that are not marketed to the general public.” The reporting requirement is problematic for two reasons:

1. Safer alternatives for extended use apparel are on the market.
 - a. As noted in draft report, “Polypropylene and polyurethane laminated textiles are feasible and available alternatives to PFAS for providing a barrier function in apparel. Helly Hansen’s LIFA Infinity Pro series of jackets and shell pants also contain a polypropylene membrane, in addition to its altered weave, to add a barrier function to each product.” (p. 37) Helly Hansen markets the LIFA Infinity Pro series as delivering “long-lasting, responsible and superior [professional grade performance](#).”
 - b. Safer alternatives for fishing apparel are on the market. Grundéns, for example, offers polyurethane-coated polyester commercial fishing apparel. The draft report identifies polyurethane as a safer alternative to PFAS.
2. The definition of “extended use outerwear” is unclear. Examples provided of activities for extended use outerwear include offshore fishing, offshore sailing, whitewater kayaking, and mountaineering. However, the definition also states that these products are not sold to the general public. In fact, the general public of Washington does engage in these activities on a regular basis, and apparel for these activities is sold to the general public at retailers such as REI, Fisheries Supply, West Marine, Cabela’s, and others. This lack of clarity guarantees that

implementation of this provision will be fraught with confusion. As safer alternatives are already on the market, we strongly urge Ecology to eliminate this exemption and restrict PFAS in all apparel.

We strongly object to the reporting requirements proposed for all other categories. The intent of the 2022 law was to move quickly toward restrictions of PFAS across product categories to prevent further harm from that already caused by this chemical class. We already know the product categories identified use PFAS, as documented in the PFAS Chemical Action Plan. Reporting requirements – on PFAS – in these product categories will do nothing to protect the health of Washington’s people or environment.

We acknowledge that Ecology, under the Safer Products for Washington program, cannot restrict chemicals in priority products unless safer, feasible, available alternatives are identified. However, for the product categories where reporting requirements are proposed, Ecology failed to use either its resources or its authority to identify safer solutions.

Cookware and kitchen supplies: Safer solutions, including cast iron and stainless steel, are clearly on the market. However, Ecology did not evaluate any alternatives and makes no proposal to restrict PFAS in this product category. This lack of action is in direct contradiction to the fact that Washington State, through the Washington Stormwater Center, issued a request for proposal in the summer of 2023 to fund projects that would “remove and replace key PFAS household items including non-stick cookware.” The RFP states “(t)his investment is intended to implement a suite of high priority actions, for a subset of priority chemicals” identified in the PFAS Chemical Action Plan, among other CAPs.

Data on safety of alternatives, notably cast iron and stainless steel, is available from King County, which has been testing cookware and kitchen supplies for lead at community events for the last several years.

[We strongly urge the department to restrict PFAS in this product category in Cycle 1.5, given the availability of safer alternatives.](#)

Additional product categories: With the exception of hard surface sealants, where Ecology also did not attempt to evaluate alternatives, it was unable to identify safer alternatives due to a lack of information on the chemical content and hazard profiles of alternatives currently in use. Ecology has the authority, under RCW 70A.350.030(4), to call in information from manufacturers on product ingredients “to assist with ... making (regulatory) determinations.” Ecology has not used this authority to obtain the identity of alternatives, but has instead relied, unsuccessfully, on voluntary appeals to manufacturers for information. As a result, Ecology has not proposed restrictions on certain high concern uses of PFAS, including firefighting turnout gear and floor waxes and polishes.

We especially urge Ecology to move quickly on restricting PFAS in **firefighting turnout gear**, where it poses an unnecessary risk to an occupation that already experiences high levels of cancer. [Firefighters are concerned](#) not only about PFAS, but also chemicals used to replace PFAS, as well as to serve other functions.

We also urge Ecology to move quickly on identifying safer alternatives to PFAS in floor waxes and polishes so the agency can restrict its use in this product category. This is likely a high-exposure use of PFAS, and the agency should not delay action.

Ecology must use its authority to identify alternatives to PFAS in use across product categories to identify those that are safer, resulting in the ability to further restrict PFAS use and send market signals regarding safer solutions.

Strong regulatory actions are urgently needed to protect vulnerable populations and vulnerable species, from pregnant women and children to salmon and orcas. The Safer Products for Washington (SPW) law is our best opportunity to prevent pollution at the source from the unregulated chemicals in millions of products and their packaging that contaminate our homes, drinking water, communities, food, waterways, and wildlife.

Thanks to Ecology's staff on their work to implement the Safer Products for Washington Law. This regulation, grounded in both sound science and market realities, has the potential to provide critically needed protections for Washington's residents, especially those most vulnerable, and its environment. While the proposed restrictions are critically important, we urge the Department to use the authority provided by the Legislature to the fullest extent to protect against further harm from this chemical class. Please feel free to contact me with any questions regarding our comments.

Sincerely,

Cheri Peele
Senior Project Manager
Toxic-Free Future