Overview

This document outlines frequently asked questions and comments we heard from stakeholders and the public on our Draft Regulatory Determinations Report to the Legislature, as well as how we considered that feedback and integrated in into our report, if applicable. We received over 700 comments between the various pathways we provided for stakeholders and the public.

We are not publishing a formal response to comments at this stage in our Safer Products for Washington implementation process. However, we want to address some of the consistent feedback and share how we considered it when developing the final Report to the Legislature on Regulatory Determinations.

If you have questions or concerns, please contact us at SaferProductsWA@ecy.wa.gov.

Frequently Asked Questions

How do I read the comments you heard on the report?

Stakeholders, the public, and anyone interested can review the comments we received. There are two places to review our comments. The first includes those we received through our online comment form and via email—our comments page. Second, you can check out the public comment survey feedback by reviewing the complete, unedited survey responses.

I made specific suggestions on the report. How did you use them?

Our team appreciates hearing so much thoughtful feedback from our stakeholders and communities in Washington. We integrated many suggestions from those who commented, including:

- Adding new references and information
- Reviewing and adding additional safer alternatives
- Clarifying or adding details to many portions
- Better linking the technical chapters to the methods that support them
- Clarifying product categories to exclude products that we did not intend to be in scope
- Reviewing the feasibility of alternatives for specific applications and modifying conclusions
- Contracting and including new hazard assessments

If you have specific questions about how we used your comments, reach out to our team. We're happy to meet with you and discuss.

Why are the definitions of the product categories so broad? Why didn't you provide a list of products covered?

While we intentionally kept the definitions for our product categories broad, we did provide more clarification about the types of products that we intend to include in our scope. Going forward, part of the rule development process will involve working with stakeholders to define our product categories in more detail. **We strongly encourage anyone (especially those who manufacture products) to share their input about how we can clarify the definitions for our product categories.**

Why didn't you consider the cost of switching to alternatives in this report?

We did not consider cost in the regulatory determinations report because Chapter 70A.350 RCW requires we conduct a cost benefit analysis during the rulemaking process. In late 2022, we will publish the formal draft rule, which will be paired with a regulatory analysis, including a cost-benefit analysis. We welcome information from manufacturers currently using priority chemicals—and who may need to switch to an alternative—about costs they expect when switching. This information will help inform our economic analyses.

Why did you rely on fire safety standards instead of performance testing for assessing flame retardants in products?

Fire safety is extremely important. Our goal was to identify alternatives that meet the same fire safety standards as priority chemicals. We do not view meeting fire safety and reducing chemical hazards as trade-offs—we can have both.

We focused on finding alternatives that could replace halogenated flame retardants and still meet relevant fire safety standards. By using fire safety standards, we are able to leverage the expertise of organizations that set the fire safety standards with which products sold in the U.S. must comply. Fire safety standards include a set of prescribed flammability tests that products and components have to meet. Using fire safety standards as a consistent metric allows us to evenly compare alternatives and priority chemicals.

We encourage our stakeholders to continue sharing feedback with us regarding fire safety measures and how they can or cannot be met using the alternatives we identified (or without using flame retardants) for our priority products.

Consistent comments

Safer Products for Washington should not regulate chemicals by class

The law we implement through our Safer Products for Washington program, RCW 70A.350, gives us the authority to consider chemicals by class. This approach helps us avoid assuming chemicals with no data are safe, and helps prevent regrettable substitutions where one chemical is restricted and replaced with a similar and equally or more toxic chemical.

We recognize chemical classes show toxicological diversity. That's why we developed a process for separating a particular chemical from the broader class when we find evidence it is safer than others in the class. Learn more in Appendix C in our report, the Criteria for Safer.

Safer Products for Washington should use a risk assessment to determine when to regulate chemicals

Often, governments restrict toxic chemicals in consumer products only after a process called **risk assessment** demonstrates significant harms are occurring. **Risk** is a combination of how toxic chemicals are and how much we're exposed to them.

Ecology and Department of Health widely use risk assessments for things like setting drinking water limits and clean-up values—but they don't prevent the use of toxic chemicals. Risk assessments need information about how we're exposed to chemicals and how they might be toxic to us or sensitive species. Often, scientists lack information about the chemicals in consumer products because:

- We don't have full hazard assessments on all chemicals in commerce.
- We're exposed to chemicals in ways we don't know about.

This can lead to an incomplete picture. If you assess a risk based on only part of the exposure, it's easy to underestimate the risk. When it comes to toxic chemicals in consumer products, this could mean that you often don't see risk from a single consumer product. But people use many consumer products, not just one—the chemicals in products we collectively use can eventually reach our environment.

Our program uses a different approach to regulate toxics in consumer products—focused on preventing pollution. A risk assessment approach answers, "What is the highest level of exposure we can accept?" Our **hazard-based approach** instead asks, "Where are the opportunities to reduce exposure to toxic chemicals by using safer alternatives?" This allows us to reduce the uses of a toxic chemical, before it harms us or the environment. This improves human and wildlife health, and reduces environmental cleanup costs.

Safer Products for Washington should consider sustainability and broader lifecycle analysis for products

We certainly support sustainability and broader lifecycle considerations, and we encourage our industry partners to think holistically about their product manufacturing. However, sustainability and lifecycle analysis are outside the scope of our research and effort. We focus on finding opportunities to reduce hazardous chemicals in consumer products when we identify alternatives that are safer, feasible to use in the product, and available to purchase.