

## **FAQs for Washington State’s Proposal to Restrict Organohalogen Flame Retardants in Plastics Device Casings of Electronic and Electrical Equipment**

**What is the regulatory program in Washington State that could restrict the use of organohalogen flame retardants (OFR) in plastic device casings for electronic and electrical equipment?**

Washington State Department of Ecology’s (Department of Ecology) regulatory program to implement the Pollution Prevention for Healthy People and Puget Sound Act (Chapter 70A.350 RCW) is called “Safer Products for Washington.” As part of this program, Ecology is evaluating whether to restrict the use of OFRs in plastic device casings for electronic and electrical equipment.

**What stage is the Department of Ecology at in the regulatory process?**

The Department is currently in Phase 3 of the program where it will determine if regulatory action is needed for the 11 chemical-product combinations that it has identified. One of the chemical-product combinations Ecology is evaluating is OFRs in plastic device casings for electric and electronic equipment. A final determination as to whether regulation is needed must be made by June 1, 2022.

If the Department determines that OFRs in electronic device casings need to be regulated, the Department will move to Phase 4 and have one year to develop a final rule no later than June 1, 2023. Any final rule must sit for one year before taking effect, which would be no later than June 1, 2024.

**What is the most recent action taken by the Department of Ecology in the regulatory process?**

On November 17, the Department released its *Draft Regulatory Determinations Report to the Legislature* from the Washington State Department of Ecology. In that report, Ecology proposes restricting the use of OFRs in plastic device casings for electrical and electronic equipment. The comment period for the draft report ends on January 28, 2022.

**What is the scope of products included in the report?**

Among the items included within the scope of device casings or enclosures are the external housing material of personal computers, laptops, monitors, televisions, mobile phones, kitchen appliances, washing machines, irons, hair dryers, and other consumer products. The Department states that the list of products currently within the regulatory scope is not exhaustive. Products not within the scope of the regulation include printed circuit boards, internal fans, wires, cables, switches, and connectors.

**How do these proposed restrictions compare to what has been done in other jurisdictions?**

No state, federal, or international regulatory authority has imposed a ban on flame retardants in electronics as broad as the one being considered in Washington State. This would make Washington State an outlier, potentially both decreasing electronic products available for purchase in the state and potentially making the products that are available more likely to pose fire risks.

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### **Doesn’t Washington State have to perform a cost-benefit analysis as part of any regulation?**

Yes, in Phase 4 the Department of Ecology must perform a cost-benefit analysis for significant legislative rules as required by RCW 34.05.028.

### **What are the requirements that the State must implement the “least burdensome alternative” for any significant legislative rule?**

RCW 34.05.028 requires that any significant legislative rule being adopted must be the least burdensome alternative for those required to comply with it to achieve the general goals.

### **Does a small business economic impact statement need to be performed for the regulation?**

Yes, the Department must prepare a small business economic impact statement consistent with the requirements of RCW 19.85.040 for each rule.

### **Is the Department of Ecology following the National Academy of Sciences (NAS) recommendations for assessing OFRs?**

No, the Department’s current approach for regulating OFRs in electronic casings goes against the recommendations of the National Academy of Sciences (NAS) that found that this diverse group of chemicals cannot be treated as a single class for purposes of assessment. Instead, the NAS has recommended that OFRs be sorted into 14 subgroups based on chemical structure, physicochemical properties, and predicted biologic activity for purposes of further assessment. Despite this, the Department has stated that “further sub-classification was not required to conduct our hazard analysis of the OFRs class.”

### **What can concerned stakeholders do to help?**

- 1) Participate in one of the upcoming public meetings on the report. Dates and times, along with registration links, are provided below.
  - [Register for Jan. 5, 2022, at 12 p.m. EST](#)
  - [Register for Jan. 6, 2022, at 9 p.m. EST](#)
- 2) Stakeholders can respond to the Department by submitting comments no later than January 28 on the *Draft Regulatory Determinations Report*. Comments can be submitted using Ecology’s [online comment form](#) or via email to [SaferProductsWA@ecy.wa.gov](mailto:SaferProductsWA@ecy.wa.gov).