

## **Notice to Interested Parties**

### **Adopting Revisions to Chapter 173-334 WAC – Children’s Safe Products Reporting Rule**

Dear CSPA interested parties:

This message provides up-to-date information related to the adoption of chapter 173-334 WAC – *Children’s Safe Products Reporting Rule*. In 2016, the Legislature passed House Bill 2545 amending the Children’s Safe Products Act (RCW 70.240). House Bill 2545 banned five toxic flame retardants and directed Ecology to evaluate whether six other flame retardants should be added to the mandatory reporting list for the Children’s Safe Products Reporting Rule. Adding chemicals to the reporting list would require manufacturers to report to Ecology if they used these chemicals in their children’s products.

In August 2016, Ecology opened rulemaking on the Children’s Safe Products Reporting Rule to comply with the legislative directive. While the rule was open, Ecology asked interested parties to submit requests for other chemicals to be considered to be added to the reporting list, or those for which new evidence is available that indicates less of a risk, allowing them to be removed from the list.

After soliciting feedback from industry, environmental organizations, and other interested parties and conducting the chemical evaluations, Ecology decided to add 22 chemicals to the reporting list (including the six flame retardants from the 2016 legislation) and to remove three chemicals from the list.

Director Maia Bellon adopted the revised rule on September 29, 2017. It will be effective on October 30, 2017.

#### **Whom does this rule affect?**

- Manufacturers that are responsible for reporting the presence of chemicals of high concern to children in their children’s products offered for sale in Washington State;
- Retailers that choose to register as accountable organizations and are responsible to ensure their suppliers report the presence of chemicals of high concern in the products offered for sale in their retail establishments.

#### **What is the purpose of the rule?**

Chapter 173-334 WAC requires manufacturers to annually report to the Washington Department of Ecology the presence of Chemicals of High Concern to Children (CHCCs) in children’s products offered for sale in Washington. The Reporting Rule identifies the CHCCs and details the process for manufacturers to report to Ecology. The rule also clarifies the enforcement process followed if manufacturers fail to provide the required reports.

## **What changed after the rule proposal?**

We added a few clarifications to the definitions:

- Added the CAS acronym to the definition of Chemical Abstract Service number.
- Corrected the term Practical Quantitation Limit by replacing the word quantification with quantitation.
- Clarified that reporting is required for total CHCC concentration by revising WAC 173-334-080(2)(e) to say: The total concentration of the CHCC contained in each product component within each product category. The total concentration may be reported in ranges, rather than the exact concentration. If there are multiple CHCC concentrations for a given component in a particular product category, the manufacturer must use the highest concentration for reporting.
- Updating chemical names in WAC 173-334-130
  - Added “and related substances” to Perfluorooctanoic acid (PFOA)
  - Edited Perfluorooctane sulfonic acid
  - Removed the acronym NP from 4-Nonyl phenol branched

We changed the list of CHCCs in WAC 173-334-130 in response to comments on the proposed rule.

- Removed Tris(4-tert-butylphenyl)phosphate (TBPP) and Butylated triphenyl phosphate
- Added Di-(2-methoxyethyl)phthalate (DMEP)

## **What changes to the original rule were proposed and adopted?**

### **Throughout WAC 173-334:**

- Changed the term ‘notice’ to “report” throughout the rule.

### **WAC 173-334-040 What definitions apply to terms used in this chapter?**

- Clarified existing definitions and added definitions.

### **WAC 173-334-080 What must the manufacturer include in its notice to the department?**

- Clarified that CHCC reporting must be for total concentration and that reports are submitted to an online database.

### **WAC 173-334-100 When must manufacturers report and for what time period?**

- Set a single annual reporting date, starting on January 30, 2019, that is consistent with reporting in other states
- Used the term “de minimis” to refer to existing minimum chemical reporting levels.
- Clarified that resubmission of identical annual data (copy and paste) is sufficient, instead of a letter to Ecology confirming no changes from the previous annual report
- Added the reporting exclusion for internal components from repealed WAC 173-334-110.

### **WAC 173-334-110 When must manufacturers begin to provide notice?**

- Repealed this section. The dates for the phase-in reporting are obsolete.
- Moved the reporting exclusion for internal components to WAC 173-334-100.

### **WAC 173-334-130 The reporting list of chemicals of high concern to children (CHCC list).**

- Edited chemical names and added acronyms for several CHCCs.
- Added 22 chemicals to the CHCC list.
  - CAS 80-09-1 - Bisphenol S (BPS)
  - CAS 84-61-7 - Dicyclohexyl phthalate (DCHP)
  - CAS 84-69-5 - Diisobutyl phthalate (DIBP)
  - CAS 115-86-6 - Triphenyl phosphate (TPP)
  - CAS 117-82-8 - Di(2-methoxyethyl) phthalate (DMEP)
  - CAS 126-72-7 - Tris (2,3-dibromopropyl) phosphate (TDBPP)
  - CAS 126-73-8 - Tri-n-butyl phosphate (TNBP)
  - CAS 131-18-0 - Dipentyl phthalate (DPP)
  - CAS 335-67-1 - Perfluorooctanoic acid (PFOA) and related substances
  - CAS 620-92-8 - Bisphenol F (BPF)
  - CAS 1241-94-7 - Ethylhexyl diphenyl phosphate (EHDPP)
  - CAS 1330-78-5 - Tricresyl phosphate (TCP)
  - CAS 13674-84-5 - Tris (1-chloro-2-propyl) phosphate (TCPP)
  - CAS 25154-52-3 - Nonylphenol
  - CAS 26040-51-7 - Bis (2-ethylhexyl) tetrabromophthalate (TBPH)
  - CAS 38051-10-4 - Bis(chloromethyl)propane-1,3-diyl tetrakis-(2-chloroethyl) bis(phosphate) (V6)
  - CAS 68937-41-7 - Isopropylated triphenyl phosphate (IPTPP)
  - CAS 84852-53-9 - Decabromodiphenyl ethane (DBDPE)
  - CAS 85535-84-8 - Short-Chain Chlorinated Paraffins (SCCPs)
  - CAS 183658-27-7 - 2-ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB)
- Removed 3 chemicals from the CHCC list.
  - CAS 85-44-9 - Phthalic anhydride
  - CAS 556-67-2 – Octamethylcyclotetrasiloxane (D4)
  - CAS 7439-98-7 – Molybdenum (Mo)

### **How to comply with the updated Reporting Rule.**

Ecology wants manufacturers to understand the requirements for reporting on the new list of CHCCs. We will be offering webinars during 2018 to explain the rule update to manufacturers, retailers and any other interested parties. We are available to answer questions and provide technical assistance.

## **Ecology CSPA Contact**

If you need help, please contact:

Tina Schaefer  
CSPA Coordinator  
PO Box 47600  
Olympia, WA 98504-7600  
360-407-6786  
[tina.schaefer@ecy.wa.gov](mailto:tina.schaefer@ecy.wa.gov)

## **Important Links**

- Rulemaking Website – [http://www.ecy.wa.gov/programs/hwtr/laws\\_rules/CSP\\_ReportingRule/1608ov.html](http://www.ecy.wa.gov/programs/hwtr/laws_rules/CSP_ReportingRule/1608ov.html)
- Rule-Making Order (CR-103 Form) – <http://www.ecy.wa.gov/laws-rules/wac173334/x1608.pdf>
- Rule Language – <http://www.ecy.wa.gov/laws-rules/wac173334/x1608a.pdf>
- Children’s Safe Products Act Webpage – <http://www.ecy.wa.gov/programs/hwtr/RTT/cspa/index.html>

## **Response to Comments**

Ecology’s response to comments received during the public comment period is now available. Download a copy at <https://fortress.wa.gov/ecy/publications/SummaryPages/1704034.html>

To see the comments Ecology received visit: <http://wt.ecology.commentinput.com/?id=Th7C1>

## **Appeal Procedures**

This adoption can be appealed under procedures described in the Administrative Procedure Act (RCW 34.05), including those found in RCW 34.05.330.

## **If you require special assistance to access this information**

To ask about the availability of this document in a version for the visually impaired, call the Hazardous Waste & Toxics Reduction Program at 360-407-6700. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.