



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**  
(Implements RCW 34.05.310)  
Do **NOT** use for expedited rule making

**Agency:** Washington Department of Ecology AO # 16-08

**Subject of possible rule making:** Children's Safe Products – Reporting Rule Chapter 173-334 WAC as authorized by the Children's Safe Products Act (CSPA) (Chapter 70.240 Revised Code of Washington). This rule includes requirements for manufacturers of children's products to annually report the presence of Chemicals of High Concern to Children (CHCCs) in children's products to Ecology. The CSPA Reporting Rule identifies the CHCCs and details the process for manufacturers to report to Ecology.

The 2016 Washington State Legislature passed House Bill (HB) 2545 which identified six flame retardants to be considered for inclusion on the CHCCs list in the CSPA reporting rule. Ecology and the Washington Department of Health will evaluate the six flame retardants and other chemicals against the CHCC criteria in the law. If these chemicals meet the criteria in the law, Ecology may propose to amend the CSPA Reporting Rule (WAC 173-334) to add the chemicals to the CHCC list in the rule. Ecology also plans to work with stakeholders to determine if these flame retardants should be included, identify other chemicals that meet the criteria in the law that should be added to the CHCC list, identify chemicals that may need to be removed from the CHCC list, and to streamline the rule to make compliance easier.

HB 2545 also amended RCW 70.240 to prohibit five flame retardants in children's products and residential upholstered furniture. Ecology expects to implement restrictions on these five chemicals without rulemaking. These five flame retardants are currently on the CSPA CHCC list.

**Statutes authorizing the agency to adopt rules on this subject:** Children's Safe Products – Chapter 70.240 RCW

**Reasons why rules on this subject may be needed and what they might accomplish:** Ecology is updating the CSPA Reporting Rule in response to HB 2545 and to update the rule based on new science and data. Now that the rule has been in place for five years, Ecology will conduct a review of the existing CHCC list using recent scientific data to determine if any chemicals should be added or deleted. Ecology will also evaluate where changes may be helpful to streamline the rule where possible.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** See Attachment A

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe): Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (Chapter 34.05 RCW).

**How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

Interested parties can stay informed about the rulemaking and public involvement opportunities as described below. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

Visit Ecology's web page at: [http://www.ecy.wa.gov/programs/hwtr/laws\\_rules/PBT/1608ov.html](http://www.ecy.wa.gov/programs/hwtr/laws_rules/PBT/1608ov.html)

**Contact Information:**

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**How to sign up for listserv/email list:** <http://listserv.wa.gov/cgi-bin/wa?A0=CHILDRENS-SAFE-PRODUCTS>

**DATE**

August 9, 2016

**NAME (TYPE OR PRINT)**

Darin Rice

**SIGNATURE**

**TITLE**

Hazardous Waste and Toxics Reduction Program Manager

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**DATE: August 09, 2016**

**TIME: 1:37 PM**

**WSR 16-17-039**

## **Attachment A**

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:**

The U.S. Environmental Protection Agency regulates the use of chemicals under the Toxic Substances Control Act but does not focus on children's products. The federal Consumer Protection Safety Commission limits specific chemicals in children's products under the federal Consumer Product Safety Improvement Act but does not require manufacturers to report. Other Washington regulations require reporting for chemical emissions or disposal but not for children's products. Three other states require manufacturers to report on chemicals in children's products: Maine (Toxic Chemicals in Children's Products), Vermont (Chemicals of High Concern to Children) and Oregon (Toxic Free Kids Act). This rulemaking will be coordinated with other states to avoid conflicts. Ecology works directly with the state's Department of Health on updates to the CSPA Reporting rule language and CHCC list.