



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600  
(360) 407-6000 • 711 (TTY) or 1-800-833-6388 (TTY)

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The Department of Ecology (Ecology) is withdrawing CR-101 WSR 08-11-096 filed May 20, 2008.

The subject of this CR-101 was to implement the Children's Safe Products Act (CSPA) – Laws of 2008, Chapter 288 (RCW 70.240) by adopting a new rule Chapter 173-334 WAC – Children's safe products rule. The rule would have adopted without material change, several enacted sections of the CSPA. Additionally the rule would have clarified that electronic components that are internal to children's products and not accessible during the products intended use are outside the regulatory scope of this legislation.

Ecology is withdrawing this CR-101 because of recent federal legislation. The "Consumer Product Safety Improvement Act of 2008" amends the "Consumer Product Safety Act" and substantially preempts the standards for lead, phthalates, and cadmium in RCW 70.240. Ecology elected not to pursue an exemption from this preemption because such a request would likely result in a protracted legal argument with marginal improvement in the safety of children's products. This federal preemption precludes the need for the proposed rule because the purpose was to clarify how the lead, cadmium and phthalate standards apply to certain products.

There are parts of Washington's law that are not preempted. Ecology is continuing to develop a list of chemicals of high concern for children (CHCC). In January 2009, Ecology will present a report to the legislature describing the process we are using to identify CHCCs; addressing concerns raised, particularly by small manufacturers and retailers, about the reporting requirements; describing how the new law affects the availability of safe car seats in Washington; and identifying children's products or product categories that contain CHCCs.

RCW 70.240 requires manufacturers of children's products containing CHCCs to notify Ecology of this six months after Ecology adopts rules that include the list of CHCCs. Ecology expects to begin this rule making in summer, 2009. The rule will also include reporting requirements. At the earliest, the reporting requirements will become effective in spring, 2011.

*Laurie M. Davies*

Laurie Davies  
Program Manager - Solid Waste and Financial Assistance  
Department of Ecology

OFFICE OF THE CODE REVISER  
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