

Toxic-Free Cosmetics Act Compliance & Outreach Questions and Answers



This document summarizes compliance and outreach questions and our responses. Find more information about the Toxic-Free Cosmetics Act (TFCA) on the [TFCA webpage](#)¹ and the [stakeholder webpage](#).² If you have questions, please contact us at ToxicFreeCosmetics@ecy.wa.gov.

Definition

Q1: The Toxic-Free Cosmetics Act law and rule restricts chemicals when intentionally added. What is considered “intentionally added”?

A: Since TFCA doesn’t define the term “intentionally added,” we intend to define it in the rule. This draft definition, based on another [toxics in products rule](#),³ is included in the [cosmetic products preliminary draft rule](#).⁴

“Intentionally added chemical” or “intentionally added” means a chemical that serves an intended function in the final product, or in the manufacturing of the product or its ingredient.

If we adopt this definition in the rule, chemicals added to fragrance formulations and preservatives added to raw materials would meet the definition of “intentionally added” because they serve an intended function in an ingredient. They would be subject to restrictions.

Intended functions could include a preservative in a raw material or a fragrance fixative in a fragrance formulation. Incidentals are included in this definition of “intentionally added.”

1 <https://ecology.wa.gov/tfca>

2 https://www.ezview.wa.gov/site/alias__1962/38927/toxic_free_cosmetics.aspx

3 <https://app.leg.wa.gov/wac/default.aspx?cite=173-337-025>

4 https://www.ezview.wa.gov/Portals/_1962/Documents/Cosmetics/TFCA_PrelimDraftRule_2024-07.pdf

TFCA doesn't apply to chemicals in the product packaging. For more information about toxics in product packaging in Washington state, please read about [PFAS in food packaging](#)⁵ and [Chapter 70A.222 RCW: Packages Containing Metals and Toxic Chemicals](#).⁶

Compliance

Q2: What chemicals are restricted in the Toxic-Free Cosmetic Act and when?

A: TFCA restricts five chemicals and four chemical classes when intentionally added to a cosmetic product. The five chemicals are:

- Formaldehyde
- Methylene glycol
- Triclosan
- meta-Phenylenediamine and its salts
- ortho-Phenylenediamine and its salts

The four chemical classes are:

- ortho-Phthalates
- Per and polyfluoroalkyl substances (PFAS)
- Mercury and mercury compounds
- Lead and lead compounds

TFCA restricts lead and lead compounds when present at or above 1 part per million in the product, intentionally added or not.

The restrictions take effect on January 1, 2025. Products purchased for use or resale on or after this date must comply with the [Toxic-Free Cosmetics Act \(TFCA\)](#).⁷ Retailers in Washington State can sell or use non-compliant products until January 1, 2026, if they were in their possession before January 1, 2025.

Q3: Who is responsible for ensuring a product is compliant?

A: If you're a person who manufactures, knowingly sells, offers for sale, distributes for sale, or distributes for use cosmetic products in Washington State, you're responsible. This includes products sold online as well as products sold in brick-and-mortar stores. If

⁵ <https://ecology.wa.gov/PFAS-food-packaging>

⁶ <https://apps.leg.wa.gov/rcw/default.aspx?cite=70A.222>

⁷ <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.560>

you're a manufacturer as defined in [RCW 70A.560.010](#),⁸ you're responsible for knowing what is in your product, whether or not you manufacture, distribute, or sell it.

Q4: What do manufacturers and distributors need to do to ensure they comply with the new law?

A: You can use one or more of the three common approaches below to determine if your product contains any of the chemicals restricted by the law.

- Conduct a raw material review or audit (disclosure).
- Obtain supplier attestations of compliance, such as a Certificate of Analysis.
- Conduct analytical testing.

When possible, we recommend working with your supply chain to obtain the information you need. This will provide you with the most information about your formulation.

For more detailed guidance, please read our [Toxic-Free Cosmetics Act Guide](#)⁹ or [email us](#)¹⁰ for technical assistance.

Q5: What do retailers need to do to ensure they comply with the new law?

A: Products you **sell** or **offer for sale** need to comply with TFCA.

- **Remember the sell-through period.** For in-state retailers, products you have on hand as of January 1, 2025, can be sold through the end of 2025. Stock received after January 1, 2025, must comply with TFCA.
- **Contact manufacturers** to determine whether the products you purchase comply with the law. We recommend you do this before the deadline of January 1, 2025, so you can identify and either sell through or remove non-compliant products from your shelves.
- **Check product ingredient lists** for restricted chemicals.

For more detailed guidance, please read our [Toxic-Free Cosmetics Act Guide](#) or [email us](#) for technical assistance.

- If a product purchased at a store or sold online is found to be non-compliant, we'll work with the retailer to remove the non-compliant product from the physical or online store.
- We'll work with the manufacturer, distributor, or both to stop distributing the non-compliant product for sale in Washington State.

⁸ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560.010>

⁹ <https://apps.ecology.wa.gov/publications/SummaryPages/2404019.html>

¹⁰ ToxicFreeCosmetics@ecy.wa.gov

- We offer technical assistance to reformulate the identified product to be compliant for sale within Washington State.

Q6: What can cosmetologists do to ensure they comply with the new law?

A: Products you use to provide service or sell to clients and customers need to comply with TFCA.

- **Remember the sell-through period.** Products you have on hand as of January 1, 2025, can be sold through the end of 2025. Products you purchase for use or resale after January 1, 2025, must comply with TFCA.
- **Contact your distributor** to determine if the products you purchase comply with TFCA. We recommend you do this before the January 1, 2025, deadline, so distributors can provide you with compliance information. If your distributor doesn't know, we can work with them to help them understand what to do to comply with TFCA.
- **Check product ingredient lists** for restricted chemicals. For more detailed guidance, please read our [Toxic-Free Cosmetics Act Guide](#)¹¹ or [email us](#)¹² for technical assistance.
- **Purchase products in Washington State.** While there isn't a guarantee that all products for sale will be compliant, TFCA's purpose is to ensure that cosmetics bought in Washington State don't have restricted chemicals.

If a product at a salon is found to be non-compliant, we'll work with the salon or cosmetologist to remove the non-compliant product from the salon. We'll connect with the distributor to stop the distribution of the non-compliant product in Washington State.

Q7: What do I have to do to comply with TFCA?

A: It's up to the regulated entities to comply with the new law and determine the best approach to ensure compliance. For more detailed guidance on how to comply with TFCA, please read our [Toxic-Free Cosmetics Act Guide](#) or [email us](#) for technical assistance.

We don't require regulated entities to:

- Submit evidence to the agency to demonstrate your products are compliant.
- Certify products through third-party certifications.
- Conduct product testing or air quality testing.

¹¹ <https://apps.ecology.wa.gov/publications/SummaryPages/2404019.html>

¹² ToxicFreeCosmetics@ecy.wa.gov

While some third-party product certifications may help determine if your product is compliant, third-party certifications don't imply or guarantee products are compliant with this new law.

Q8: How will Ecology determine compliance with TFCA?

A: In addition to education and technical assistance, Ecology may combine multiple strategies to support regulated entities' work toward compliance. Strategies we may use to check for compliance include:

- Review information from public sources such as product labels, safety data sheets, and public databases.
- Perform market analysis/surveillance and monitor product recalls or withdrawals.
- Request and review manufacturer-provided product information.
- Conduct limited product testing (view the [Ecology product testing database](#)).¹³
- Review other published product testing results.

If we find a non-compliant product, we'll contact the regulated entities with information to foster compliance.

Q9: What happens if a product is found to be non-compliant?

A: Our priority is to support all responsible entities toward compliance. If a product at a retailer or salon is found to be out of compliance, we'll work with the retailer or cosmetology business to identify the distributor and manufacturer of the product. We'll work with:

- The retailer or cosmetologist to remove identified non-compliant products from their shelves.
- The distributor to stop distributing identified non-compliant products in Washington State.
- The manufacturer to reformulate the identified non-compliant product as necessary to be compliant for distribution or sale within Washington State.

¹³ <https://apps.ecology.wa.gov/ptdbreporting/Default.aspx>

Q10: Can someone be penalized for making, selling, or distributing non-compliant products?

A: The Toxic-Free Cosmetics Act authorizes Ecology to issue penalties for non-compliance ([Chapter 70A.560 RCW](#)).¹⁴

Regulated entities are responsible for complying with TFCA. Our priority is to support regulated entities in coming into compliance through a combination of outreach, education, and assistance. Often, education and technical assistance are enough to correct a problem.

Although our preference is to work with regulated entities to come into compliance, we may use our enforcement discretion when responding to instances of non-compliance. We often focus on individuals and businesses who have repeated cases of non-compliance or have significant violations. We consider multiple factors before deciding on enforcement steps and may respond in different ways, ranging from warning letters to monetary penalties.

Ultimately, we want regulated entities to understand their responsibilities under this law and do what is best for consumers, businesses, workers, and the environment.

Q11: Do the new restrictions apply to products currently under development?

A: Yes. The restrictions apply to all cosmetic products starting January 1, 2025. Products that Washington State retailers have as existing stock before January 1, 2025, that are not compliant with the new restrictions can be sold to the public until January 1, 2026.

Outreach Strategy

Q12: How will Ecology inform regulated entities about the Toxic-Free Cosmetics Act?

A: We communicate with regulated entities through emails to our [Toxic-Free Cosmetics Act email distribution list](#)¹⁵ and by posting information on our [website](#).¹⁶

We worked with over 25 organizations with existing networks in the cosmetics sector to send emails to inform their networks about TFCA. These organizations sent over 25,000 emails to interested parties on our behalf.

We invited them to check out our website and sign up for our email distribution list. We sent postcards to about 900 businesses in Washington State identified by their North American Industry Classification System (NAICS) codes. Finally, we contacted 125

¹⁴ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560>

¹⁵ <https://public.govdelivery.com/accounts/WAECY/signup/40162>

¹⁶ <https://ecology.wa.gov/TFCA>

community-based organizations, 35 local health departments, and 35 Tribal health and youth contacts.

We have issued news releases, blog posts, and social media posts, and gave interviews to several media outlets about TFCA.

We are always looking for ways to expand our reach. If you have ideas about how we can reach interested parties and the regulated community, [please let us know](#).¹⁷

Q13: What support is Ecology providing to help regulated entities meet the new requirements?

A: To help you meet the requirements of TFCA, you can read our [guidance document](#)¹⁸ and [email us](#) to receive custom technical assistance.

We offer voluntary initiatives for businesses seeking to go beyond compliance. Small cosmetic manufacturers can apply for our [safer cosmetics certification subsidy program](#)¹⁹ to receive technical support and financial subsidies to formulate safer products. Cosmetologists and small cosmetology businesses can [contact us](#) to learn about incentives to switch to safer products.

¹⁷ ToxicFreeCosmetics@ecy.wa.gov

¹⁸ <https://apps.ecology.wa.gov/publications/SummaryPages/2404019.html>

¹⁹ <https://ecology.wa.gov/cosmetics-manufacturers>

Resources

Here are additional resources for you to engage and learn more about Washington's Toxic-Free Cosmetics Act and Cosmetic Products Rulemaking.

[Toxic-Free Cosmetics Act Guide: Restrictions for Cosmetic Industry & Sellers](#)²⁰

[Preliminary Draft Rule](#)²¹

Webpages:

- [Toxic-Free Cosmetics Act - Washington State Department of Ecology](#)²²
- [Toxic-Free Cosmetics Act](#)²³
- [Cosmetics Rulemaking: Cosmetic Products Restrictions](#)²⁴
- [Safer cosmetics certification subsidy program](#)
- [Safer cosmetics replacement program](#)²⁵
- [Toxic-Free Cosmetics interested parties' webpage](#)²⁶

Cosmetics reports to the Legislature:

- [Chemicals in Cosmetics Used by Washington Residents – Phase One Results](#)²⁷
- [Chemicals in Cosmetics Used By Washington Residents – Phase Two Results](#)²⁸

Information about lead:

- [Washington State Department of Health – Lead](#)²⁹
- [Common Sources of Lead Poisoning](#)³⁰

²⁰<https://apps.ecology.wa.gov/publications/SummaryPages/2404019.html>

²¹ https://www.ezview.wa.gov/Portals/_1962/Documents/Cosmetics/TFCA_PrelimDraftRule_2024-07.pdf

²² <https://ecology.wa.gov/TFCA>

²³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560>

²⁴ <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-339>

²⁵ <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/product-replacement-program/cosmetics>

²⁶ https://www.ezview.wa.gov/site/alias__1962/38927/toxic_free_cosmetics.aspx

²⁷ <https://apps.ecology.wa.gov/publications/summarypages/2304007.html>

²⁸ <https://apps.ecology.wa.gov/publications/summarypages/2404022.html>

²⁹ <https://doh.wa.gov/community-and-environment/contaminants/lead>

³⁰ <https://doh.wa.gov/community-and-environment/contaminants/lead/common-sources-lead-poisoning>

Publication information

This report is available on the Department of Ecology's website at <https://apps.ecology.wa.gov/ecy/publications/SummaryPages/2404047.html>

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³¹ <https://ecology.wa.gov/contact>

³² <https://ecology.wa.gov/accessibility>