

# Rulemaking Overview: Formaldehyde in Cosmetics Formal Draft Rule



## Introduction

This overview document supports the Formaldehyde in Cosmetics Rulemaking and answers questions related to this rulemaking proposal. If you have questions about this overview document, the formal draft rule (proposed rule), or the rulemaking effort, contact us at [ToxicFreeCosmetics@ecy.wa.gov](mailto:ToxicFreeCosmetics@ecy.wa.gov).

## Topics

1. Why did Ecology develop this rule?
2. What is the purpose of this rule?
3. What is included in the proposed rule?
4. What **isn't** included in the proposed rule?
5. What changed from the preliminary draft rule to the proposed rule?
6. Who does the proposed rule apply to?
7. How did Ecology develop the list of formaldehyde releasers in the proposed rule?
8. How can I provide comments on the proposed rule and other rulemaking documents?
9. What will Ecology do once the comment period closes?
10. How did Ecology tell people about this rulemaking?
11. What else does Ecology do to reduce toxic chemicals in cosmetic products?
12. How will Ecology support compliance with the regulations related to toxic chemicals in cosmetic products?
13. Will the restrictions on formaldehyde releasers change how my favorite cosmetic products work?
14. Will restrictions on formaldehyde releasers make cosmetic products more expensive?
15. What happens if a consumer buys a cosmetic product with restricted ingredients in a different state and uses them in Washington State?
16. How can I find more information?

# Discussion

## 1. Why did Ecology develop this rule?

We developed the proposed rule to make cosmetic products safer. The proposed rule restricts formaldehyde and formaldehyde releasers intentionally added to cosmetic products. Formaldehyde releasers are chemicals that release formaldehyde over time.

In 2023, the Washington State Legislature passed a law called the [Toxic-Free Cosmetics Act \(Chapter 70A.560 RCW\)](#)<sup>1</sup> to improve cosmetic and personal care product safety and protect Washington's residents and environment from toxic chemicals, particularly people with higher toxic exposures. The Toxic-Free Cosmetics Act:

- Applies to cosmetic products like makeup, perfume, shampoo, lotion, deodorant, shaving cream, and toothpaste.
- Restricts the manufacture, sale, and distribution of cosmetic products that contain nine chemicals and chemical classes when intentionally added.
- Restricts the manufacture, sale, and distribution of cosmetic products that contain lead impurities when present at or above 1 part per million (ppm).

The Toxic-Free Cosmetics Act also authorizes Ecology to conduct rulemaking to:

- Restrict chemicals that release formaldehyde. Ecology announced the start of the [Formaldehyde in Cosmetics Rulemaking](#)<sup>2</sup> on May 22, 2024.
- Adopt a different limit on lead impurities. Ecology announced the start of the [Lead in Cosmetics Rulemaking](#)<sup>3</sup> on December 19, 2024. This is a separate rulemaking effort.
- Implement, administer, and enforce the law.

## 2. What is the purpose of this rule?

The purpose of the proposed rule is to make cosmetic products safer. Manufacturers will make cosmetic products safer by **not** intentionally adding formaldehyde or chemicals that release formaldehyde to cosmetic products.

In addition to restricting intentionally added formaldehyde releasers, the proposed rule also includes a list of 28 formaldehyde releasers used in cosmetic products. This list will help manufacturers investigate their supply chain and **not** use chemicals that release formaldehyde.

The proposed rule also defines “intentionally added,” which applies to the restrictions in the proposed rule and the restrictions in the Toxic-Free Cosmetics Act. The Toxic-Free Cosmetics Act restricts nine intentionally added chemicals but doesn't define “intentionally added.” The

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<sup>1</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560>

<sup>2</sup> <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-339>

<sup>3</sup> <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-339-lead-in-cosmetics>

definition in the proposed rule clarifies that “intentionally added” means a chemical that serves an intended function in:

- The final product.
- The manufacturing of the product.
- An ingredient in the final product.

### 3. What is included in the proposed rule?

The proposed rule:

- Identifies 28 chemicals used in cosmetic products that release formaldehyde, also called “formaldehyde releasers.”
- Restricts formaldehyde and formaldehyde releasers intentionally added to cosmetic products.
- Defines the term “intentionally added” to clarify restrictions on toxic chemicals in the Toxic-Free Cosmetics Act ([RCW 70A.560.020](#)<sup>4</sup>).

### 4. What isn’t included in the proposed rule?

The proposed rule **doesn’t** include a restriction on lead or lead impurities.

The Toxic-Free Cosmetics Act restricts lead intentionally added to cosmetic products as well as lead impurities at or above 1 ppm. After meeting with many cosmetics manufacturers, we learned that a strict 1 ppm limit on lead impurities can be difficult for some cosmetic products to achieve.

Lead is a metal that occurs naturally in some raw ingredients used in cosmetic products, such as minerals and clays. Ingredients used for pigments are a common source of lead impurities, but manufacturers have limited pigment options approved by the federal Food and Drug Administration. The variability of lead concentrations in ingredients can prevent manufacturers from complying with the statutory limit of 1 ppm.

On December 19, 2024, we:

- Announced the start of [rulemaking](#)<sup>5</sup> to identify a feasible approach to regulating lead in cosmetic products, including potentially adopting a different limit on lead impurities than the statutory limit of 1 ppm.
- Issued an [interim policy on lead in cosmetics](#)<sup>6</sup> to provide compliance guidance to manufacturers while we conduct the rulemaking.

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<sup>4</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560.020>

<sup>5</sup> <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-339-lead-in-cosmetics>

<sup>6</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2404036.html>

This interim policy gives:

- Manufacturers more time to comply with the lead restriction.
- Ecology more time to collect information.
- Manufacturers alternative paths to compliance for cosmetic products that are unable to achieve lead concentrations below 1 ppm.

To receive updates about these efforts, join our [email list](#).<sup>7</sup>

## 5. What changed from the preliminary draft rule to the proposed rule?

In the summer of 2024, we invited people to comment on the preliminary draft rule. We received comments from members of the public, cosmetic professionals, industry associations, local government, community advocacy groups, and environmental advocacy groups. Based on these comments and additional research, we made the following changes:

- Purpose: Section 010
  - Revised to make it clear that the proposed rule:
    - Establishes definitions to supplement those in RCW 70A.560.010.
    - Clarifies the restrictions in Chapter 70A.560 RCW.
- Definitions: Section 020
  - Revised the definition of “intentionally added” to:
    - Clarify that the definition applies to the restrictions in Chapter 70A.560 RCW and the restrictions in the proposed rule.
    - Make the definition of “intentionally added” effective on January 1, 2027.
  - Revised the definition of “sell” to include cosmetic products used in a service.
  - Removed definitions related to health equity and environmental justice.
- Health equity and environmental justice: Formerly Section 040

Removed this section from the proposed rule. Instead, we developed an implementation plan that provides an overview of our efforts to implement the laws, rules, and voluntary efforts related to reducing toxic chemicals in cosmetic products. In the implementation plan, we described our commitment and approach to informing and engaging people who live and work in communities that face higher toxic exposure or who experience other environmental and health disparities. We will continue to update the

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<sup>7</sup> <https://public.govdelivery.com/accounts/WAECY/signup/40162>

implementation plan as we learn and improve our efforts to reduce toxic chemicals in cosmetic products.

- Restrictions: Section 110
  - Added the Chapter 70A.560 RCW restriction on intentionally added formaldehyde and the effective date of the restriction. Because this restriction is in the statute, we **can't** change it through this rulemaking. We added the statutory restriction to the proposed rule to clarify that formaldehyde is intentionally added to a cosmetic product or ingredient when it functions as an antimicrobial, a preservative, a denaturant, a cross linker, or serves another purpose.

We also clarified in the proposed rule that formaldehyde is intentionally added to a cosmetic product when:

- Formaldehyde is directly added to the cosmetic product.
  - A chemical selected to release formaldehyde to the product or ingredient over time is added to the cosmetic product.
- Revised the list of formaldehyde releasers. We:
    - Removed formaldehyde releasers that **aren't** used in cosmetic products.
    - Added two formaldehyde releasers used in cosmetic products.
    - Added “when used in heat-activated hair straighteners” to clarify that those chemicals release formaldehyde when used in heat-activated hair straighteners.
    - Combined all formaldehyde releasers into one list, made the effective date of the restriction apply to all listed formaldehyde releasers (instead of July 1, 2026, for the first ten chemicals and July 1, 2027, for the remaining chemicals), and changed the effective date to January 1, 2027.
    - Changed the deadline to January 1, 2028, for in-state retailers to exhaust their existing stock through sales to the public.

The chemicals listed in the proposed rule as items 1 through 10 are the formaldehyde releasers we prioritized based on prevalence of use and potential to reduce disproportionate exposure. These ten chemicals represent 99.6 percent of the formaldehyde releasers used in cosmetic products sold in the United States.

The remaining 18 formaldehyde releasers in the proposed rule are listed in alphabetical order. We included these chemicals because they:

- Are used in cosmetic products.
- Might be substituted for commonly used formaldehyde releasers, but if so, would likely result in similar negative health impacts.

- Contribute to cumulative exposures to formaldehyde.
- Revised the compliance approach. Because formaldehyde occurs naturally and can be made through metabolic processes, we must determine that it was intentionally added for the purpose of preserving the product. To make this determination, we may infer from the following actions:
  - Reviewing ingredient lists.
  - Sampling for formaldehyde in cosmetic products.
  - Considering other relevant information.

## 6. Who does the proposed rule apply to?

The proposed rule:

- Affects cosmetics manufacturers, distributors, retailers, and cosmetology businesses operating in Washington State.
- Applies to cosmetic products used in services, sold online, and sold in brick-and-mortar stores.

Ecology **doesn't** regulate cosmetic products manufactured or sold on Tribal lands. However, the adopted rule may indirectly impact cosmetic products sold online that are distributed to, or used on, Tribal lands.

## 7. How did Ecology develop the list of formaldehyde releasers in the proposed rule?

We partnered with the Washington State Department of Health to develop the list of 28 formaldehyde releasers in the proposed rule. To do this, we:

- Compiled a general list of formaldehyde releasers, including their chemical names and Chemical Abstract Services (CAS) numbers.
- Prioritized the list of formaldehyde releasers based on:
  - Prevalence of use in cosmetic products [[RCW 70A.560.030\(2\)\(a\)\(i\)](#)<sup>8</sup>].
  - Potential to reduce disproportionate exposures [[RCW 70A.560.030\(2\)\(a\)\(ii\)](#)<sup>9</sup>].

### Step 1: Compiling a general list of formaldehyde releasers

To compile the general list, we:

- Reviewed scientific literature and product databases, such as Mintel's Global New Products Database (Mintel's Global Database), EWG Skin Deep® Cosmetics Database

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<sup>8</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560.030>

<sup>9</sup> Ibid.

(EWG Skin Deep®), Ultras™ Prospector® from UL Solutions (Ultras™ Prospector®), SpecialChem, and California Safe Cosmetics Product Database.

- Worked with colleagues in the Safer Products for Washington program and the Washington State Department of Health.
- Consulted other stakeholders such as the California Department of Health, Environmental Working Group (EWG), Breast Cancer Prevention Partners, Toxic Free Future, The Good Face Project, and Underwriters Laboratory (UL).
- Searched the PubChem Database and International Nomenclature Chemical Ingredients (INCI) Database using CAS numbers to remove duplicate chemicals. We also searched the INCI Database to determine which chemicals can be used in cosmetic products in the United States.

## Step 2: Prioritizing the list of formaldehyde releasers

To prioritize the list of formaldehyde releasers, we evaluated:

- Potential to reduce disproportionate exposures.
- Prevalence of use in cosmetic products sold in the United States.

### ***Potential to reduce disproportionate exposures***

Our 2023 [Chemicals in Cosmetics Report to the Legislature](#)<sup>10</sup> identified several cosmetic product categories that are more likely used by women of color. We determined these by reviewing scientific literature, talking to scientists in the cosmetics field, and asking people in Washington State what cosmetic products they use and where they buy them. Based on that report and our subsequent research, we identified makeup, hair straighteners and smoothers, facial cleansers, nail polish, and intimate hygiene products as products more likely to be used by beauty industry workers and women of color.

When we prioritized formaldehyde releasers, we considered whether they are found in products more likely used by workers and women of color (products of concern). We also included formaldehyde releasers **not** used in products of concern in the proposed rule because they can still contribute to disproportionate exposures. If not restricted in the proposed rule, these formaldehyde releasers might become “regrettable substitutes” – that is, replacements for the formaldehyde releasers currently used, but resulting in similar negative health impacts as the original chemicals. Their use also contributes to cumulative exposures to formaldehyde.

### ***Prevalence of use***

First, we searched the Mintel United States database for the 49 chemicals identified as formaldehyde releasers to determine if they are used as ingredients in cosmetic products sold in the United States. To do this, we filtered by product type and only included chemicals used in products classified as “Beauty and Personal Care Products.” We also removed products classified as “Bar Soap,” because Chapter 70A.560 RCW and the proposed rule exclude bar soap from the definition of “cosmetic.”

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<sup>10</sup> <https://apps.ecology.wa.gov/publications/summarypages/2304007.html>

We then searched for the 49 chemicals identified as formaldehyde releasers in other databases (EWG Skin Deep®, INCI database, Mintel’s Global database, SpecialChem, and Ultrus™ Prospector®) to ensure we had a complete list of formaldehyde releasers used in cosmetic products. Finally, we removed formaldehyde releasers with **no** evidence of use in cosmetic products.

### List of formaldehyde releasers in the proposed rule

The proposed rule includes a list of 28 formaldehyde releasers used in cosmetic products. We prioritized those most frequently used in cosmetic products in the United States and those used in products of concern. The prioritized formaldehyde releasers are listed as chemicals 1 through 10 in the proposed rule. Ninety-nine percent of cosmetic products that use formaldehyde releasers contain one of the chemicals listed as 1 through 7 in the proposed rule.

Because the prevalence of use for these remaining chemicals was comparatively low or unknown, we also used the potential for disproportionate exposure to determine which formaldehyde releasers to include as 8 through 10 in the proposed rule.

For more information on the list of formaldehyde releasers, review the [Formaldehyde Releasers Technical Support](#).<sup>11</sup>

## 8. How can I provide comments on the proposed rule and other rulemaking documents?

Comment on the proposed rule and other documents in one of these ways:

- [Submit your comments online](#)<sup>12</sup> starting February 6, 2025, at 12:00 AM PST, until April 11, 2025, at 11:59 PM PDT.

- Mail your comments to:

Stacey Callaway  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600

Submissions must be postmarked by April 11, 2025.

- Submit verbal comments at an online public hearing. You are welcome to attend both hearings.
  - March 31, 2025, at 10:00 AM PDT ([register for the March 31 online hearing](#)<sup>13</sup>)
  - April 1, 2025, at 5:30 PM PDT ([register for the April 1 online hearing](#)<sup>14</sup>)

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<sup>11</sup> <https://apps.ecology.wa.gov/publications/summarypages/2504012.html>

<sup>12</sup> <https://ecology.wa.gov/TFCA>

<sup>13</sup> <https://waecy-wa-gov.zoom.us/meeting/register/Gp62q1zTQgO6lOirK5RADg#/registration>

<sup>14</sup> <https://waecy-wa-gov.zoom.us/meeting/register/qebSZddERc6eka5tQfKStQ#/registration>



Information provided in a comment or attachment may be posted on the internet. To request information in another language, contact Shari Franjevic at [ToxicFreeCosmetics@ecy.wa.gov](mailto:ToxicFreeCosmetics@ecy.wa.gov) by March 19, 2025.

## Draft documents available for comment

- [Proposed rule](#)<sup>15</sup> (Chapter 173-339 WAC: Cosmetic Products Restrictions)

The proposed rule:

- Identifies 28 chemicals used in cosmetic products that release formaldehyde, also called “formaldehyde releasers.”
- Restricts formaldehyde and formaldehyde releasers intentionally added to cosmetic products.
- Defines the term “intentionally added” to clarify restrictions on toxic chemicals in the Toxic-Free Cosmetics Act ([RCW 70A.560.020](#)<sup>16</sup>).

You’re welcome to comment on any aspect of the proposed rule. We’re especially interested in the following questions.

- Did we miss any formaldehyde releasers used in cosmetic products?
- Do you have feedback on the compliance date for the restriction on formaldehyde releasers?

- [Preliminary Regulatory Analyses](#)<sup>17</sup>

This report includes the probable costs and benefits of the proposed rule and considers qualitative and quantitative benefits. You’re welcome to comment on any aspect of the Preliminary Regulatory Analyses. Specifically:

- Do you know of any research or data that could inform our decisions?

- SEPA Determination of Nonsignificance and Environmental Checklist

These documents are available on our [Formaldehyde in Cosmetics Rulemaking webpage](#).<sup>18</sup> They include information on potential environmental benefits of the proposed rule. You’re welcome to comment on any aspect of the SEPA documents.

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<sup>15</sup> <https://ecology.wa.gov/rulemaking-proposed-language-wac-173-339-01-30-25>

<sup>16</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560.020>

<sup>17</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2504009.html>

<sup>18</sup> <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-339>

- [Draft Cosmetics Implementation Plan](#)<sup>19</sup>

This document provides an overview of this rulemaking and other efforts to make cosmetic products safer and to protect Washington residents, particularly people with higher toxic exposures.

You're welcome to comment on any aspect of the draft implementation plan. We're especially interested in your ideas about the following questions.

- How can we improve our efforts to implement these regulations?
- How can we better support regulated businesses?
- How can we improve our efforts to inform and engage communities? Who else should we engage? What information would help?
- How can we better serve the public, particularly people who live and work in communities that may have higher toxic exposures?

### Tips for providing feedback

We welcome all feedback. Here are some tips that may help.

- Tell us what you support and what you disagree with.
- Suggest specific language. This helps our team understand what change you want.
- Use examples to illustrate concerns and explain your feedback.
- Provide supplemental information. Include references supporting your concerns, such as regulations, sales data, market information, or brand and product information.
- Offer solutions. Suggest ways we can address your concerns.

## 9. What will Ecology do once the comment period closes?

After the comment period, we'll use the comments to improve the proposed rule and rulemaking documents. We'll also create a document called a Concise Explanatory Statement that includes all comments and our responses to comments. We expect to decide on rule adoption by September 2025.

## 10. How did Ecology tell people about this rulemaking?

We announced the rulemaking on May 22, 2024. Before announcing the rulemaking, we created an email distribution list to engage and inform interested parties. The email distribution list currently has over 1,000 subscribers. To create the email distribution list, we:

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<sup>19</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2504010.html>

- Connected with over 25 industry organizations to share messaging through their networks.
- Mailed postcards to 900 businesses in Washington State.
- Contacted 125 community-based organizations, 35 local health departments, and 35 Tribal health and youth contacts.

After announcing the rulemaking, we worked with interested parties to develop the preliminary draft rule. During the rule development phase, we:

- Participated in multiple in-person events in the Pacific Northwest, including:
  - Yakima Pride 2024.
  - Mosaic Festival 2024.
  - Duwamish River Festival 2024.
  - Affiliated Tribes of Northwest Indians (ATNI) Annual Convention 2024.
  - Small Asian Business Fair in Seattle 2024.
  - Waba Korean Expo & Festival in Seattle 2024.
  - Affiliated Tribes of Northwest Indians (ATNI) Natural Resources Summit 2024.
- Connected with a community health advocate to survey and facilitate a workgroup of Black cosmetologists.
- Hosted an informational webinar on June 11, 2024, to provide an overview of the Toxic-Free Cosmetics Act and the rulemaking and to answer questions ([June 11 presentation slides](#)<sup>20</sup>).
- Hosted a webinar on July 23, 2024, to provide an overview of the preliminary draft rule ([July 23 presentation slides](#)<sup>21</sup>).
- Provided an informal public comment period to collect feedback from interested parties on the [preliminary draft rule](#).<sup>22</sup>
- Used [public comments](#)<sup>23</sup> to develop the proposed rule.

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<sup>20</sup> [https://www.ezview.wa.gov/Portals/\\_1962/Documents/Cosmetics/11June2024-TFCA-webinarSlides.pdf](https://www.ezview.wa.gov/Portals/_1962/Documents/Cosmetics/11June2024-TFCA-webinarSlides.pdf)

<sup>21</sup> [https://www.ezview.wa.gov/Portals/\\_1962/images/Toxic%20Free%20Cosmetics%20Act/TFCA\\_Webinar\\_%202024\\_07-23\\_AccessibleVersion.pdf](https://www.ezview.wa.gov/Portals/_1962/images/Toxic%20Free%20Cosmetics%20Act/TFCA_Webinar_%202024_07-23_AccessibleVersion.pdf)

<sup>22</sup> [https://ecology.wa.gov/getattachment/4d872846-fca7-4d63-b052-18abe11dde2a/TFCA\\_PrelimDraftRule\\_2024-07.pdf](https://ecology.wa.gov/getattachment/4d872846-fca7-4d63-b052-18abe11dde2a/TFCA_PrelimDraftRule_2024-07.pdf)

<sup>23</sup> <https://hwtr.ecology.commentinput.com/comment/extra?id=93Bx2jiP5D>

Throughout the rulemaking, we have and will continue to:

- Issue multiple news releases.
- Issue blog and social media posts.
- Provide interviews to media outlets.
- Present information to communities, small businesses, industry representatives, environmental and community advocacy groups, and local government agencies.

## 11. What else does Ecology do to reduce toxic chemicals in cosmetic products?

In Washington State, there are several laws and rules that regulate the manufacture, sale, and distribution of cosmetic products.

- [Chapter 70A.560 RCW](#): Toxic-Free Cosmetics Act<sup>24</sup>
  - Restricts nine chemicals and chemical classes intentionally added to cosmetic products. Effective January 1, 2025.
  - Restricts lead impurities in cosmetic products to less than 1 ppm. Effective January 1, 2025.\*

*\* We recently started a rulemaking to identify a feasible approach to regulating lead in cosmetic products, and issued an [interim policy on lead in cosmetics](#)<sup>25</sup> to provide compliance guidance to manufacturers while we conduct the rulemaking.*
  - Directs Ecology to identify and [assess the hazards of chemicals](#)<sup>26</sup> and provide the information to the public.
  - Directs Ecology to implement an initiative to support:
    - [Small manufacturers](#)<sup>27</sup> in efforts to obtain voluntary environmental health certifications.
    - Independent cosmetologists and salons in efforts to [transition to safer cosmetic products](#).<sup>28</sup>

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<sup>24</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560>

<sup>25</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2404036.html>

<sup>26</sup> <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/washingtons-toxics-in-products-laws/toxic-free-cosmetics-act#faq>

<sup>27</sup> <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/washingtons-toxics-in-products-laws/toxic-free-cosmetics-act#help>

<sup>28</sup> <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/product-replacement-program/cosmetics>

These initiatives may include providing technical assistance and support, resources for chemical hazard assessments, resources for reformulating products, resources for identifying safer products, and resources for financial incentives.

Visit our [Toxic-Free Cosmetics Act webpage](#)<sup>29</sup> for more information on these efforts.

- [Chapter 70A.430 RCW](#): Children’s Safe Products Act.<sup>30</sup> Restricts cadmium, lead, and phthalates in children’s cosmetic products. Effective since July 2009. Visit our [Children’s Safe Products Act webpage](#) for more information.
- [Chapter 173-334 WAC](#): Children’s Safe Products—Reporting Rule.<sup>31</sup> Requires manufacturers to report to Ecology if their children’s products contain chemicals of high concern. This includes cosmetic products made or marketed to children under the age of 12.
- [Chapter 173-337 WAC](#): Safer Products Restrictions and Reporting.<sup>32</sup> [WAC 173-337-111](#)<sup>33</sup> restricts ortho-phthalates intentionally added to fragrances used in beauty products and personal care products. Effective January 1, 2025. Visit our [compliance and reporting webpage](#)<sup>34</sup> for more information.
- [Safer Products for Washington](#) Cycle 2.<sup>35</sup> On November 1, 2024, we invited the public to provide comments on our [draft Priority Products report](#).<sup>36</sup> In this report, we identified BTEX in nail products and cVMS in cosmetic products as potential priority products. If we keep these products in the final report we submit to the Legislature in June 2025, we will determine regulatory actions by June 2027 and adopt regulatory actions in [Chapter 173-337 WAC](#)<sup>37</sup> by June 2028.

## 12. How will Ecology support compliance with the regulations related to toxic chemicals in cosmetic products?

Our priority is to support regulated entities’ compliance efforts through a combination of outreach, education, and assistance. When businesses **don’t** comply with state regulations on toxic chemicals in cosmetic products, we start with open communication and technical assistance.

To support compliance, we will:

- Oversee compliance with restrictions by combining multiple strategies such as:

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<sup>29</sup> <https://ecology.wa.gov/TFCA>

<sup>30</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.430>

<sup>31</sup> <https://app.leg.wa.gov/wac/default.aspx?cite=173-334>

<sup>32</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-337>

<sup>33</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-337-111>

<sup>34</sup> <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/washingtons-toxics-in-products-laws/safer-products/compliance-and-reporting>

<sup>35</sup> <https://ecology.wa.gov/safer-products-wa>

<sup>36</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2404049.html>

<sup>37</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-337>

- Reviewing information from public sources (product labels, safety data sheets, and public databases).
  - Conducting product testing (view the [Ecology Consumer Products Database](#)<sup>38</sup>).
  - Reviewing manufacturer-provided product information.
  - Reviewing other published product testing results.
- Assess statements submitted by regulated entities to provide evidence to dispute an initial determination about the intentional addition of a formaldehyde releaser. We will review the information submitted with the statement and will work with the regulated entity to maintain or achieve compliance.
  - Develop guidance as needed to provide more details on aspects of laws and rules related to toxic chemicals in cosmetics products.
  - Provide financial incentive programs.
  - Support regulated entities in determining the best approach to ensure compliance. Washington State regulations **don't** currently require regulated entities to:
    - Submit evidence to the agency to demonstrate your cosmetic products are compliant.
    - Certify cosmetic products through third-party certifications.
    - Conduct product testing or air quality testing.

We consider multiple factors before deciding on enforcement steps and may respond in different ways, ranging from warning letters to monetary penalties. In most cases, regulated entities will correct noncompliant products after receiving information and technical assistance. If the problem persists, especially when there are repeated cases of noncompliance or have significant violations, we may need to issue penalties as described in [RCW 70A.560.030](#).<sup>39</sup>

Ultimately, we want regulated entities to understand their responsibilities and to do what's best for consumers, workers, and the environment. We are committed to supporting businesses with their compliance efforts. Contact us at [ToxicFreeCosmetics@ecy.wa.gov](mailto:ToxicFreeCosmetics@ecy.wa.gov) with questions or concerns.

### **13. Will restrictions on formaldehyde releasers change how my favorite cosmetic products work?**

There are already many cosmetic products available that use preservatives that don't release formaldehyde. So, while manufacturers may need to change the preservative system used to keep your favorite product fresh, we don't expect that change to impact how the cosmetic

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<sup>38</sup> <https://apps.ecology.wa.gov/consumerproducts/>

<sup>39</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.560.030>

product works for consumers. You may not even notice the change, but your favorite cosmetic products will be safer for you and your family.

There are **no** drop-in alternatives for formaldehyde releasers in keratin straightening treatments. There are, however, alternative products and methods for smoothing\* hair that **don't** use toxic formaldehyde-releasing chemicals.

*\* Hair smoothing includes "relaxing" and "straightening" and removing frizz.*

## **14. Will restrictions on formaldehyde releasers make cosmetic products more expensive?**

Alternative preservatives are already used in many cosmetic products on the market. Some cosmetic products are more expensive and some are less. Much of the market has already moved away from using formaldehyde-releasing preservatives, which indicates that alternatives are available and cost effective.

We expect manufacturers to be able to make cosmetic products without formaldehyde without significant increases in costs. When manufacturers change a product, the most expensive step is the initial cost of changing an ingredient. To help regulated entities, especially small businesses, we provide technical support and subsidy programs.

### **Subsidy program**

We developed a [safer cosmetic certification subsidy program](#)<sup>40</sup> to assist small cosmetics manufacturers in reformulating products with safer ingredients and obtaining environmental health certifications for their products. The certifications that meet our [criteria for safer](#)<sup>41</sup> include the Cradle to Cradle® Product Certification, the Cradle to Cradle Material Health Certification, and the USEPA Safer Choice certification.

The certification process requires manufacturers to:

- Identify all the chemicals in their cosmetic product.
- Screen cosmetic products for all chemicals with known hazards and for chemicals restricted under the new law.
- Reformulate the cosmetic product using safer ingredients, if necessary.

Manufacturers who apply and are accepted may be reimbursed for the following expenses used towards obtaining product certification:

- Seventy-five percent of the cost for the first \$10,000 spent.
- Fifty percent of the cost for \$10,000 to \$50,000 spent.

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<sup>40</sup> <https://ecology.wa.gov/regulations-permits/guidance-technical-assistance/safer-alternatives/safer-chemicals-for-manufacturers/cosmetics-certification-subsidy-program>

<sup>41</sup> <https://apps.ecology.wa.gov/publications/summarypages/2204018.html>

- Reformulation costs up to \$2,500.

A manufacturer may receive a maximum reimbursement of \$30,000 towards product certification.

### **Safer Salons Partnership**

We are developing and preparing to pilot the [Safer Salons Partnership](#)<sup>42</sup> to assist hair stylists and salons with switching to safer cosmetic products. To develop this program, we:

- Conducted a focus group and surveyed cosmetologists.
- Created a tiered system for reimbursement that prioritizes cosmetic products made by, designed for, or marketed to people who live and work in communities who face higher toxic exposure or who experience other environmental and health disparities.

The Safer Salons Partnership pilot prioritizes participation from:

- Women- and minority-owned businesses.
- Businesses located in communities who face higher toxic exposure or who experience other environmental and health disparities.

The Safer Salons Partnership pilot reimburses participants for the purchase of eligible third-party certified safer cosmetic products, and for eligible salon services where those products are used, like a shampoo or styling service.

We will continue implementing and will use the results of the initial efforts to improve the Safer Salons Partnership over time. Depending on funding and capacity, we may:

- Expand the scope of the Safer Salons Partnership beyond hair stylists and salons.
- Pursue partnerships with organizations like the Non-Toxic Black Beauty Project or other certification programs, to increase cosmetic products offered under the program.

## **15. What happens if a consumer buys a cosmetic product with restricted ingredients in a different state and uses them in Washington State?**

The restrictions on formaldehyde and formaldehyde releasers apply to the manufacture, sale, and distribution of cosmetic products. They **don't** apply to people who buy cosmetic products for personal use.

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<sup>42</sup> <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/product-replacement-program/cosmetics>



## 16. How can I find more information?

For more information:

- Contact the Toxic-Free Cosmetics Act team at [ToxicFreeCosmetics@ecy.wa.gov](mailto:ToxicFreeCosmetics@ecy.wa.gov).
- Subscribe to the [Toxic-Free Cosmetics email list](#).<sup>43</sup>
- Contact the TFCA Implementation Planner.

**Shari Franjevic**

[ToxicFreeCosmetics@ecy.wa.gov](mailto:ToxicFreeCosmetics@ecy.wa.gov)

**360-338-2913**

- Visit the following webpages.
  - [Rulemaking: Formaldehyde in Cosmetics \(Chapter 173-339 WAC\)](#)<sup>44</sup>
  - [Rulemaking: lead-in-cosmetics \(Chapter 173-339 WAC\)](#)<sup>45</sup>
  - [Safer product certification subsidy program](#)<sup>46</sup>
  - [Safer cosmetics replacement program](#)<sup>47</sup>
  - [Toxic-Free Cosmetics Act](#)<sup>48</sup>
  - [Toxic-Free Cosmetics interested parties](#)<sup>49</sup>
- Review the following rulemaking documents.
  - [Proposed rule](#)<sup>50</sup>
  - [Preliminary Regulatory Analyses](#)<sup>51</sup>
  - SEPA Determination of Non-Significance and Environmental Checklist (available on the [rulemaking webpage](#)<sup>52</sup>)
  - [Draft Cosmetics Implementation Plan](#)<sup>53</sup>

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<sup>43</sup> <https://public.govdelivery.com/accounts/WAECY/signup/40162>

<sup>44</sup> <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-339>

<sup>45</sup> <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-339-lead-in-cosmetics>

<sup>46</sup> <https://ecology.wa.gov/regulations-permits/guidance-technical-assistance/safer-alternatives/safer-chemicals-for-manufacturers/safer-product-certification-subsidy-program>

<sup>47</sup> <https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/product-replacement-program/cosmetics>

<sup>48</sup> <https://ecology.wa.gov/TFCA>

<sup>49</sup> [https://www.ezview.wa.gov/site/alias\\_\\_1962/38927/toxic\\_free\\_cosmetics.aspx](https://www.ezview.wa.gov/site/alias__1962/38927/toxic_free_cosmetics.aspx)

<sup>50</sup> <https://ecology.wa.gov/rulemaking-proposed-language-wac-173-339-01-30-25>

<sup>51</sup> <https://apps.ecology.wa.gov/publications/summarypages/2504009.html>

<sup>52</sup> <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-339>

<sup>53</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2504010.html>

- [Formaldehyde Releasers Technical Support](#)<sup>54</sup>
- Review the following publications.
  - [Chemical Facts for Cosmetologists: Formaldehyde & Formaldehyde Releasers](#).<sup>55</sup>
  - [Chemicals in Cosmetics Used by Washington Residents: Report to the Legislature Pursuant to ESSB 5693 \(2022\) Section 302 \(56\)](#)<sup>56</sup>
  - [Interim policy on lead in cosmetics](#)<sup>57</sup>
  - [Keeping Your Home and Family Healthy: Reduce Your Exposure to Harmful Chemicals in Self-Care Products](#)<sup>58</sup>
  - [Take the Detective Work Out of Choosing Safer Cosmetics](#)<sup>59</sup>
  - [Toxic-Free Cosmetic Act Compliance & Outreach Questions and Answers](#)<sup>60</sup>
  - [Toxic-Free Cosmetics Act Guide: Restrictions for Cosmetic Industry & Sellers](#)<sup>61</sup>

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<sup>54</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2504012.html>

<sup>55</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2404039.html>

<sup>56</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2304007.html>

<sup>57</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2304007.html>

<sup>58</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2204038.html>

<sup>59</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2404061.html>

<sup>60</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2404047.html>

<sup>61</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2404019.html>

## Publication Information

This report is available on the Department of Ecology's website at <https://apps.ecology.wa.gov/publications/SummaryPages/2504011.html>.

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**Website:** [Washington State Department of Ecology](https://www.ecology.wa.gov)<sup>62</sup>

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<sup>62</sup> [www.ecology.wa.gov/contact](https://www.ecology.wa.gov/contact)