

August 13, 2024

Laura Watson, Director
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, Washington 98503-1274

RE: Comments on TFCA Implementation and Preliminary Draft Rule Requirements

Director Watson,

On behalf of the Consumer Healthcare Products Association (CHPA)¹, I appreciate the opportunity to comment on the Department of Ecology's (DOE) efforts to implement the Toxic Free Cosmetic Act (TFCA) and preliminary draft rule requirements. As a key stakeholder during the legislative deliberations on this act, we find it concerning that certain drug products, especially oral care items, are now being considered as cosmetics in the implementation process. This apparent shift in classification seems to deviate from the intent and spirit of the discussions held during the act's formation. Given the distinct nature and purpose of consumer healthcare products like oral care items, we urge the department to reconsider their inclusion in any final rule.

Based on our review of the [presentation](#) of the June 11, 2024 Department of Ecology meeting and comments made during a subsequent [webinar](#) on July 23, it appears that toothpaste is currently being considered as a cosmetic for the purpose of the TFCA. This conclusion is supported by the inclusion of specific chemicals listed in the [preliminary draft rule](#).

Oral care products, such as toothpaste, serve primarily as health and hygiene tools rather than cosmetic enhancements. Their core functions—cleaning teeth, preventing decay, and maintaining oral health—stand in stark contrast to the aesthetic purposes of typical cosmetics. These products often incorporate active ingredients that necessitate more rigorous regulation and oversight than standard cosmetic items. Moreover, many oral care products make specific health-related claims, aligning them with over-the-counter (OTC) drugs rather than cosmetics. This fundamental difference in purpose, composition, and regulatory need underscores the importance of appropriate classification for oral care products.

CHPA strongly urges the DOE to reconsider the inclusion of oral care products in any rulemaking associated with the TFCA. While we acknowledge the intent of the legislation as passed, we believe that encompassing oral care products within the scope of this new act contradicts the spirit of the law as envisioned by the legislature. It is our firm position that oral care products should be classified as drugs, not cosmetics. This distinction is crucial, and their inclusion in the TFCA's purview would be inconsistent with their primary function and regulatory status. We respectfully request that the DOE align its rulemaking with the original legislative intent and recognize the unique status of oral care products as drugs,

¹ The Consumer Healthcare Products Association is the Washington, D.C. based national trade association representing the makers and marketers of over-the-counter medicine, dietary supplements, and consumer medical devices

thereby excluding them from the act's scope.

Respectfully submitted,

A handwritten signature in blue ink that reads "Carlos I. Gutiérrez". The signature is written in a cursive style with a large, stylized initial "C" and "G".

Carlos I. Gutiérrez
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