

Washington Retail Association

Dear Department of Ecology,

Thank you for the opportunity to provide comments on the proposed rule regarding formaldehyde restrictions in cosmetic products sold in Washington. After review of the most recent draft language, there are a few areas we are highlighting to either seek further clarification or to offer for your consideration from the retail perspective:

- **Sell-Through Provision**

We appreciate the inclusion of the sell-through provision, which offers necessary flexibility for retailers during the transition period.

- **Clarification of "Knowingly Sell"**

Further guidance is needed on what constitutes "knowingly" selling a noncompliant product, particularly given the limited visibility many retailers have into product formulation details.

- **Complexity of Chemical Listings**

The list of banned formaldehyde releasers includes 28 chemicals and their CAS numbers, with restrictions extending to aliases of those chemicals. The presence of multiple chemical names may make compliance verification difficult for non-technical retail staff. We are raising this for your awareness as the process continues.

- **Confidential Business Information (CBI) Concerns**

While CBI protections are acknowledged in the rule, there is some concern that they may not fully safeguard proprietary formulations, and unintentionally result in some vendors hesitancy to supply products in the state or complicate partnerships involving private-label products.

- **Testing and Threshold Levels**

There is concern about how product testing will be used in compliance, particularly the potential for test results to indicate the presence of restricted substances at trace levels that may not reflect intentional formulation. We ask for clarity on which testing methods will be used and how results will be evaluated as well as consideration for inclusion of a reasonable trace level threshold.

Thank you again for the opportunity to submit comments on this draft rulemaking. We look forward to working with you as the process continues to develop.