

Pam Johnson

Please see Hazardous Waste Management Program comments on proposed rule and implementation plan in uploaded files.

201 South Jackson Street, Suite 6300, Seattle, WA 98104
www.kingcountyhazwastewa.gov

April 11, 2025

Ms. Stacey Callaway
Washington State Department of Ecology
Post Office Box 47600
Olympia, WA 98504-7600

Dear Ms. Callaway,

RE: Formal comments on proposed Chapter 173-339 WAC Cosmetics Products Restrictions

Thank you for the opportunity to provide formal comments on the Department of Ecology's proposed rule restricting formaldehyde and formaldehyde releasers in cosmetics.

The Hazardous Waste Management Program (Haz Waste Program) is a multi-jurisdictional local government program in Washington State. The Program works to protect and enhance public health and environmental quality in King County, Washington. We do this by reducing the threat posed by the production, use, storage, and disposal of hazardous materials.

The Haz Waste Program testified in support of the 2023 legislation, SHB 1047, recognizing that toxic chemicals in cosmetics harm human health and the environment. We also have a deep commitment to racial equity, which directs attention to policies that disproportionately impact Black, Indigenous and People of Color (BIPOC) communities.

Formaldehyde, a known human carcinogen, has long been used in many chemical hair products disproportionately marketed to Black women. Taking products off the market that include formaldehyde and formaldehyde releasers is imperative to reducing this harm that has increased severe health risks including certain cancers and respiratory issues.

We support the language in proposed Chapter 173-339 WAC including:

- The definition of "intentionally added," which broadly includes chemicals intended to serve a function in the product, in the manufacturing of the product or an ingredient in the product.
- The list of formaldehyde releasers that targets those found in cosmetics and those known to disproportionately impact workers and women of color.
- A compliance schedule that is urgent yet realistic for manufacturers, retailers, cosmetologists and consumers.

- The assumption that, if Ecology detects formaldehyde in a product, then it or a formaldehyde releaser has been intentionally added unless manufacturer can prove otherwise.

We encourage the Department of Ecology to work with consumers, retailers and cosmetologists that use or sell the newly restricted products to better understand the harm from formaldehyde and formaldehyde releasers, to find safer alternatives, and to comply with the restrictions.

Thank you again for your work to implement the Toxic Free Cosmetics Act. If you have any questions please contact Pam Johnson, Hazardous Waste Liaison and Policy Advisor at pam.johnson@seattle.gov.

Sincerely,



Maythia Airhart, Director
Hazardous Waste Management Program

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www.kingcountyhazwastewa.gov

April 11, 2025

Ms. Stacey Callaway
Washington State Department of Ecology
Post Office Box 47600
Olympia, WA 98504-7600

Dear Ms. Callaway:

Re: Comments on Draft Cosmetics Implementation Plan

Thank you for the opportunity to provide comments on the Department of Ecology's Draft Cosmetics Implementation Plan.

The Hazardous Waste Management Program (Haz Waste Program) is a multi-jurisdictional local government program in Washington State. The Program works to protect and enhance public health and environmental quality in King County, Washington. We do this by reducing the threat posed by the production, use, storage, and disposal of hazardous materials.

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Part 1: Chapter 173-339 WAC Cosmetic Products Restrictions

Overall, we support Ecology's approach to informing those impacted by this rule, and the strategies to ensure compliance. We support the prioritization of chemicals and cosmetic products used by overburdened communities and have appreciated efforts to date to engage those communities in the rulemaking process. We have made direct comments on the contents of the proposed rule under in a separate letter.

We have the following specific comments:

Definition of regulated entities (pg. 5) We encourage Ecology to further define regulated entities by naming those explicitly included in statute: manufacturers, distributors, retailers, cosmetology businesses, etc...

Identifying formaldehyde releasers (pg. 11) Please include a reference for the following sentence: *Ninety-nine percent of cosmetic products that use formaldehyde releasers contain one of the chemicals listed as items 1 through 7 in the proposed rule.*

Who may be affected (pg. 12) Please add consumers and cosmetologists to the list of those impacted by this rule. It is ultimately consumers and cosmetologists who:

- will see changes to the availability and formulation of products
- have first-hand knowledge of use and performance of products
- are directly impacted by the benefits and harms of products

Agency partners and Ecology staff (pg. 14) We suggest this section be removed from the implementation plan. It does not provide useful knowledge to the public, and the relevant staff contact information and Ecology resources are included at the end of each section... Although it is good to know Ecology will train their own staff internally, this external facing document would benefit from treating Ecology as one entity.

If it is included, please remove the reference to the Haz Waste Program. We consider our participation as one of many interested parties. As resources allow, we will continue to work with impacted businesses, cosmetologists and consumers in King County to implement TFCA. It is our intention that our programs will complement and leverage the work Ecology is doing, and we commit to coordinate our efforts throughout.

Evaluating the Rule (pg. 17) We agree that it is important to seek evaluation input from the full list of groups included in the implementation plan. It is especially important to get feedback from the public and people who live and work in communities that may have higher exposure to toxic chemicals. We know there are resource limitations for this work, so this section would benefit from more detail about how to get feedback regarding effectiveness, cost, and other potential barriers from those who might use those products. A safer product also may work less well, cost more, be unfamiliar, or be not widely available. This information can help inform what steps need to be taken to incentivize better product manufacturing, cost management, availability, and education efforts that can explore with consumers whether the product is essential in the first place.

Part 2: Efforts to Reduce Toxic Chemicals in Cosmetic Products

Overall, the Haz Waste Program supports the implementation efforts detailed in this plan. We appreciate the inclusion of the Environmental Justice Assessment as part of the plan; however, it is even more important that racial equity be used as a lens for all the work Ecology is doing to reduce the impacts of toxic chemicals on workers and consumers in Washington. This includes understanding the history and culture of product use in some communities. For example, choosing to prioritize chemicals in hair relaxers because of the disproportionate health impacts to Black women must be informed by the long history and current culture of what hair styles are acceptable in white dominant social systems. Black women have had to use these toxic products to gain access to jobs, household wealth, education, and general societal acceptance. Banning a product or chemical that has been a social necessity is complex, and we look forward to working with Ecology on moving through the implementation process with this complexity in mind.

Sell-through date (pg. 22) The sell-through date should be for existing inventory is January 1, 2026 for everything except formaldehyde releasers. Only formaldehyde releasers should have a sell-through date January 1, 2028. This should be clarified in this section.

Cosmetics toolkit (pg. 31)

- In the first paragraph it would be more accurate to say: "Lead-containing eyeliners are a source of lead exposure and have been linked to elevated blood lead levels in some communities in WA State."
- We support the expansion of the cosmetic toolkit beyond the lead in eyeliner project. Even if resources do not allow for full replication, please prioritize products used by communities that are disproportionately impacted, have language barriers, and/or have cultural ties to products.

Informing and Engaging (pg. 37) In the list of interested parties, we request that the specific reference to the Haz Waste Program be removed and replaced with local governments and public health departments. We plan to work with impacted businesses, cosmetologists and consumers in King County to implement TFCA. It is our intention that our programs will complement and leverage the work Ecology is doing and commit to coordinate our efforts in the future. We recommend that Ecology develop a more robust network of local governments, community-based organizations, and businesses to expand outreach and education efforts. We would be happy to explore various ways to do this including an external implementation committee; issue-based meetings; networking events; community-specific information toolkits, etc.

Engagement

- **(pg. 39)** We support commitment to co-developing equitable and meaningful engagement approaches with people who live and work in communities that may have higher exposure to toxic chemicals or who experience other environmental and health disparities. We strongly encourage Ecology to use the language below that was included in the preliminary draft rule language (and has since been removed) to guide those efforts and remove barriers to participation:

Examples of strategies to remove barriers include:

- *Covering costs related to childcare and food.*
 - *Complying with requirements of the Americans with Disabilities Act (ADA).*
 - *Accommodating other accessibility needs.*
 - *Compensating community members for lived experience and expertise.*
- **(pg. 40)** Please remove the bullet that commits the Haz Waste Program to leveraging our mini contracts with CBOs. Again, we are exploring many ways to work with Ecology on education and outreach but cannot commit future resources at this time.

Agency partners and Ecology staff (pg. 40) Again, since this is a public facing document, we do not believe this section outlining how Ecology will communicate internally and with agency partners is necessary.

Thank you again for the opportunity to comment on this draft Implementation Plan, and do not hesitate to reach out to me or Pam Johnson, Hazardous Waste Liaison & Policy Advisor, pjohnson@seattle.gov with questions or to clarify any comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Maythia Airhart', is positioned above the printed name.

Maythia Airhart, Director
Hazardous Waste Management Program