Chapter 173-339 WAC
COSMETIC PRODUCTS RESTRICTIONS

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WAC

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PART A - GENERAL

WAC 173-339-010 Authority and purpose. (1) **Authority.** Chapter 70A.560 Revised Code of Washington (RCW) authorizes the Washington state department of ecology (ecology) to implement, administer, and enforce chapter 70A.560 RCW.

(2) **Purpose.** The goal of this chapter is to implement chapter 70A.560 RCW. This chapter ensures the safety of cosmetic products and protects Washington residents, particularly people with higher toxic exposures.

(a) This chapter implements chapter 70A.560 RCW by establishing:

(i) Definitions to supplement those in RCW 70A.560.010.

(ii) Ecology's determination of chemicals used in cosmetic products that release formaldehyde (formaldehyde releasers), which are additionally restricted in cosmetic products (RCW 70A.560.020 (1)(c) and 70A.560.030 (2)(b) and (c)).

(iii) Other generally applicable provisions pertaining to ecology's administration and enforcement of chapter 70A.560 RCW.

(b) This chapter implements chapter 70A.560 RCW by clarifying:

(i) The restrictions pertaining to cosmetic products that contain the chemicals or compounds specified in RCW 70A.560.020 (1)(a) through (h), and lead and lead compounds specified in RCW 70A.560.020(2).

(ii) How ecology will enforce the restriction on cosmetic products that contain intentionally added formaldehyde, which takes effect January 1, 2025.

[Statutory Authority: Chapter 70A.560 RCW and RCW 70A.02.060. WSR 25-18-057 (Order 24-01), s 173-339-010, filed 8/28/25, effective 9/28/25.]

WAC 173-339-015 Applicability. (1) This chapter applies to any person who manufactures, knowingly sells (including wholesale, online, or retail), offers for sale (including wholesale, online, or retail), or distributes (including distributing for sale and distributing for use) a cosmetic product in or into Washington state.

(2) Cosmetic products.

(a) This chapter applies to cosmetic products, regardless of whether or not the product contains drug ingredients regulated by the United States Food and Drug Administration (FDA).

(b) This chapter does **not** apply to:

(i) Cosmetic products excluded from chapter 70A.560 RCW.

(ii) Cosmetic products transported or stored in Washington state solely for sale or distribution to consumers outside of Washington state.

(iii) Drug ingredients regulated by the FDA.

(iv) Prescription drugs approved by the FDA.

(v) The recycling or disposal of existing stock.

[Statutory Authority: Chapter 70A.560 RCW and RCW 70A.02.060. WSR 25-18-057 (Order 24-01), s 173-339-015, filed 8/28/25, effective 9/28/25.]

WAC 173-339-020 Acronyms and definitions. Unless ecology determines the context requires otherwise, the following definitions apply for the purposes of this chapter.

"Alias" means a synonym for a chemical or chemical in a class listed in this chapter identified using a recognized authoritative source deemed appropriate by ecology.

"Chemical abstracts service registry number" or **"CAS RN"** means the number assigned to identify a particular chemical by the chemical abstracts service, a service of the American Chemical Society that indexes and compiles abstracts of worldwide chemical literature called *chemical abstracts*.

"Cosmetic product" has the same meaning as "cosmetic product" defined in RCW 70A.560.010 and "cosmetic" defined in RCW 69.04.011:

"The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap."

"Distributing" includes distributing for sale and distributing for use.

"Ecology" means the Washington state department of ecology.

"Existing stock" means cosmetic products physically located in Washington state on or before the date the restriction takes effect that in-state retailers, including cosmetology businesses, intend to sell to end-use consumers.

"FDA" means the United States Food and Drug Administration.

"Formaldehyde" means formaldehyde (CAS RN 50-00-0).

"In-state retailer" means a person or business, including a cosmetology business, that sells cosmetic products to end-use consumers and is located in Washington state.

"Intentionally added chemical" or **"intentionally added"** means a chemical that serves an intended function in:

- The cosmetic product.
- An ingredient in the cosmetic product.

This definition applies to the chemicals restricted in chapter 70A.560 RCW. This definition takes effect January 1, 2027.

"Manufacturer" has the same meaning as in RCW 70A.560.010:

""Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product or is an importer or domestic distributor of a product sold or offered for sale in or into the state."

"ppm" means parts per million.

"RCW" means Revised Code of Washington.

"Sell" or **"offering for sale"** includes wholesale, online, retail, and using in a service.

"WAC" means Washington Administrative Code.

[Statutory Authority: Chapter 70A.560 RCW and RCW 70A.02.060. WSR 25-18-057 (Order 24-01), s 173-339-020, filed 8/28/25, effective 9/28/25.]

WAC 173-339-025 Enforcement and penalties. (1) Any violation of chapter 70A.560 RCW or this chapter is subject to the enforcement and penalty sections of chapter 70A.560 RCW.

(2) In accordance with RCW 70A.560.030:

(a) A manufacturer that produces a product or imports or domestically distributes a product in or into Washington in violation of a requirement of chapter 70A.560 RCW or this chapter is subject to a civil penalty **not** to exceed $5,000 for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty **not** to exceed $10,000 for each repeat offense.

(b) A manufacturer may appeal any penalty provided for in this chapter to the pollution control hearings board.

(c) All penalties collected under this chapter shall be deposited in the model toxics control operating account created in RCW 70A.305.180.

[Statutory Authority: Chapter 70A.560 RCW and RCW 70A.02.060. WSR 25-18-057 (Order 24-01), s 173-339-025, filed 8/28/25, effective 9/28/25.]

WAC 173-339-030 Severability. If any provision of this chapter or its application to any person is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances is **not** affected.

[Statutory Authority: Chapter 70A.560 RCW and RCW 70A.02.060. WSR 25-18-057 (Order 24-01), s 173-339-030, filed 8/28/25, effective 9/28/25.]

WAC 173-339-035 Relation to other laws and rules. In addition to the requirements of this chapter and chapter 70A.560 RCW, other laws, rules, and ordinances may apply to cosmetic products containing restricted chemicals. Nothing in this chapter is intended to excuse persons regulated by this chapter from complying with other laws, rules, ordinances, procedures, restrictions, or limitations on regulated cosmetic products.

[Statutory Authority: Chapter 70A.560 RCW and RCW 70A.02.060. WSR 25-18-057 (Order 24-01), s 173-339-035, filed 8/28/25, effective 9/28/25.]

WAC 173-339-040 Confidential business information (CBI). A person who intends to submit information to ecology may request that ecology treat that information as confidential as provided in RCW

43.21A.160 by providing appropriate documentation supporting the request.

[Statutory Authority: Chapter 70A.560 RCW and RCW 70A.02.060. WSR 25-18-057 (Order 24-01), s 173-339-040, filed 8/28/25, effective 9/28/25.]

PART B - CHEMICALS IN COSMETIC PRODUCTS

WAC 173-339-110 Formaldehyde and formaldehyde releasers. (1) **Compliance schedule.**

(a) Formaldehyde.

(i) The restriction in subsection (2)(a) of this section takes effect January 1, 2025, in accordance with RCW 70A.560.020 (1)(c).

(ii) An in-state retailer in possession of cosmetic products on the date the restriction in subsection (2)(a) of this section takes effect may exhaust their existing stock through sales to the public until January 1, 2026, in accordance with RCW 70A.560.020(3).

(b) Formaldehyde releasers.

(i) The restriction in subsection (2)(b) of this section takes effect on January 1, 2027.

(ii) An in-state retailer in possession of cosmetic products on the date the restriction in subsection (2)(b) of this section takes effect may exhaust their existing stock through sales to the public until January 1, 2028.

(2) **Restriction.**

(a) Formaldehyde.

(i) No person may manufacture, knowingly sell, offer for sale, or distribute a cosmetic product described in WAC 173-339-015(2) that contains intentionally added formaldehyde, in accordance with RCW 70A.560.020 (1)(c).

(ii) Applying the definition of "intentionally added" in WAC 173-339-020 that takes effect on January 1, 2027:

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. This includes:

(A) The direct addition of formaldehyde.

(B) The addition of a chemical selected to release formaldehyde to the product or ingredient over time or under conditions of product use.

(b) Formaldehyde releasers.

No person may manufacture, knowingly sell, offer for sale, or distribute a cosmetic product described in WAC 173-339-015(2) that contains the intentionally added formaldehyde releasers, including aliases of the chemical name and aliases of the CAS RN, in the following table.

Table: Formaldehyde Releasers

Item	Chemical name	CAS RN
1	DMDM Hydantoin	6440-58-0
2	Diazolidinyl Urea	78491-02-8
3	Imidazolidinyl Urea	39236-46-9
4	Quaternium-15	4080-31-3; 51229-78-8

Item	Chemical name	CAS RN
5	Tosylamide/Formaldehyde Resin (PTSAF)	25035-71-6
6	2-Bromo-2-Nitropropane-1,3-Diol (Bronopol)	52-51-7
7	Sodium Hydroxymethylglycinate	70161-44-3
8	Polyoxymethylene Urea	9011-05-6; 68611-64-3
9	Polyoxymethylene Melamine	9003-08-1
10	5-Bromo-5-Nitro-1,3-Dioxane (Bronidox)	30007-47-7
11	7-Ethylbicyclo-oxazolidine (Bioban CS1246)	7747-35-5
12	Benzylhemiformal	14548-60-8
13	Dimethylhydantoin formaldehyde (DMHF)	26811-08-5; 9065-13-8
14	Dimethylol Glycol	3586-55-8
15	Dimethylol Urea	140-95-4
16	Dimethyl Oxazolidine	51200-87-4
17	MDM Hydantoin	116-25-6; 27636-82-4; 16228-00-5
18	Methenamine	100-97-0
19	Methylal	109-87-5
20	Paraformaldehyde	30525-89-4
21	Polyoxymethylene	9002-81-7
22	Tetramethylolglycoluril	5395-50-6
23	Timonacic (when used in heat-activated hair straighteners)	444-27-9
24	Tris-Hydroxymethylnitromethane	126-11-4
25	Urea, polymer with formaldehyde, isobutylated	68002-18-6

(c) Compliance.

(i) Ecology may infer from any of the following actions that formaldehyde, a restricted formaldehyde releaser, or both were intentionally added.

(A) Reviewing ingredient lists.

(B) Sampling for formaldehyde in cosmetic products.

(C) Considering other relevant information.

(ii) Manufacturers may rebut this inference by submitting a statement to ecology that includes the following information.

(A) The name and address of the person submitting the statement.

(B) A statement that neither of the following were intentionally added to a cosmetic product or ingredient.

(I) Formaldehyde.

(II) A chemical known to release formaldehyde.

(C) Credible evidence supporting that statement. Credible evidence may include information, data, or sources relevant to substantiate that statement. Ecology determines what qualifies as "credible evidence" on a case-by-case basis.

(D) The following certification.

"I certify under penalty of perjury under the law of Washington that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry as the person or one of the persons who manage(s) the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete."

[Statutory Authority: Chapter 70A.560 RCW and RCW 70A.02.060. WSR 25-18-057 (Order 24-01), s 173-339-110, filed 8/28/25, effective 9/28/25.]