



# Toxic-Free Cosmetics Act

**Shari Franjevic**, TFCA Implementation Lead  
**Stacey Callaway**, TFCA Rulemaking Lead



# Agenda

## **1. The Toxic-Free Cosmetics Act**

Background, requirements, implementation

## **2. Rulemaking**

Formaldehyde releasers

## **3. Discussion on the preliminary draft rule**

Draft requirements

## **4. Next steps**



# Toxic-Free Cosmetics Act

Background, requirements, and implementation

# The law

## Toxic-Free Cosmetics Act (Ch. 70A.560 RCW)

- 1. Restriction:** Restricts the *manufacture, distribution, and sale* of cosmetic products that contain certain chemicals.
- 2. Technical assistance:** Directs us to provide technical support to small businesses that make or use cosmetic products.
- 3. Rulemaking:** Gives us the authority to conduct rulemaking to identify and restrict formaldehyde-releasing chemicals used in cosmetics.

# Restrictions on cosmetic products

Cosmetic products manufactured, sold, or distributed in Washington **can't contain:**

- Intentionally added restricted chemicals.
- Lead or lead compounds at or above 1 ppm.

## Deadlines

- **Jan. 1, 2025:** Restrictions take effect.
- **Jan. 1, 2026:** Deadline for in-state retailers to sell existing stock.

# Restricted chemicals and chemical classes

## Chemicals

1. Formaldehyde (CAS 50-00-0)
2. Methylene glycol (CAS 463-57-0)
3. Triclosan (CAS 3380-34-5)
4. m-Phenylenediamine and its salts (CAS 108-45-2)
5. o-Phenylenediamine and its salts (CAS 95-54-5)

## Chemical classes

6. o-Phthalates (several CAS)
7. PFAS (several CAS)
8. Mercury (CAS 7439-97-6) and mercury compounds
9. Lead (CAS 7439-92-1) and lead compounds



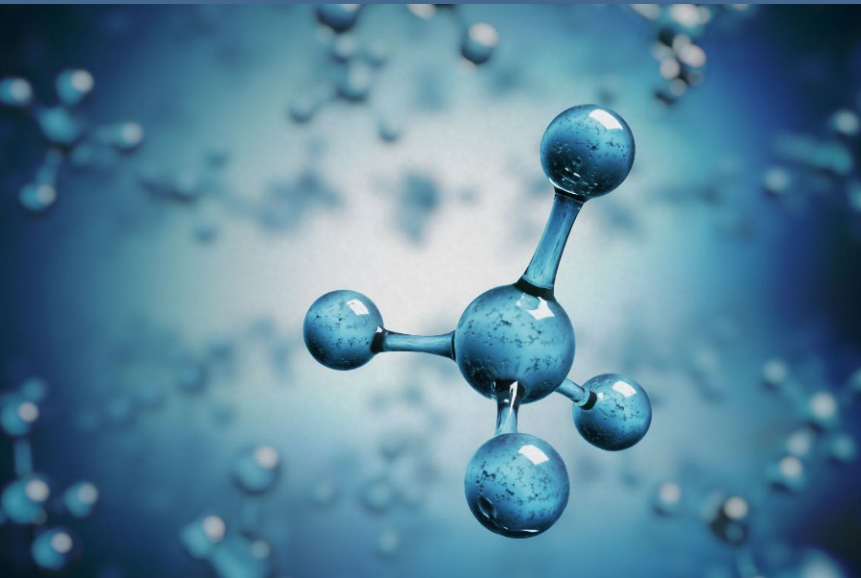
# Vision

- Equitably reduce exposure to toxic chemicals in cosmetic products.
- Prevent releases of toxic chemicals from cosmetic products into the environment.

# Levers for financial and technical assistance

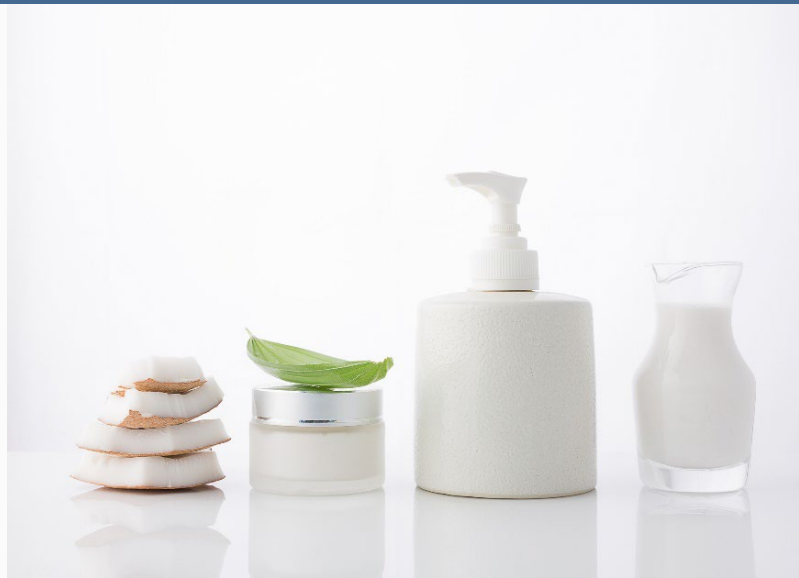
## Hazard assessment

**We** identify and assess safer ingredients.



## Certification subsidy

**Brands** make and certify safer products.



## Cosmetologist incentive

**Salons** purchase and use safer products.





# Demand pull strategy

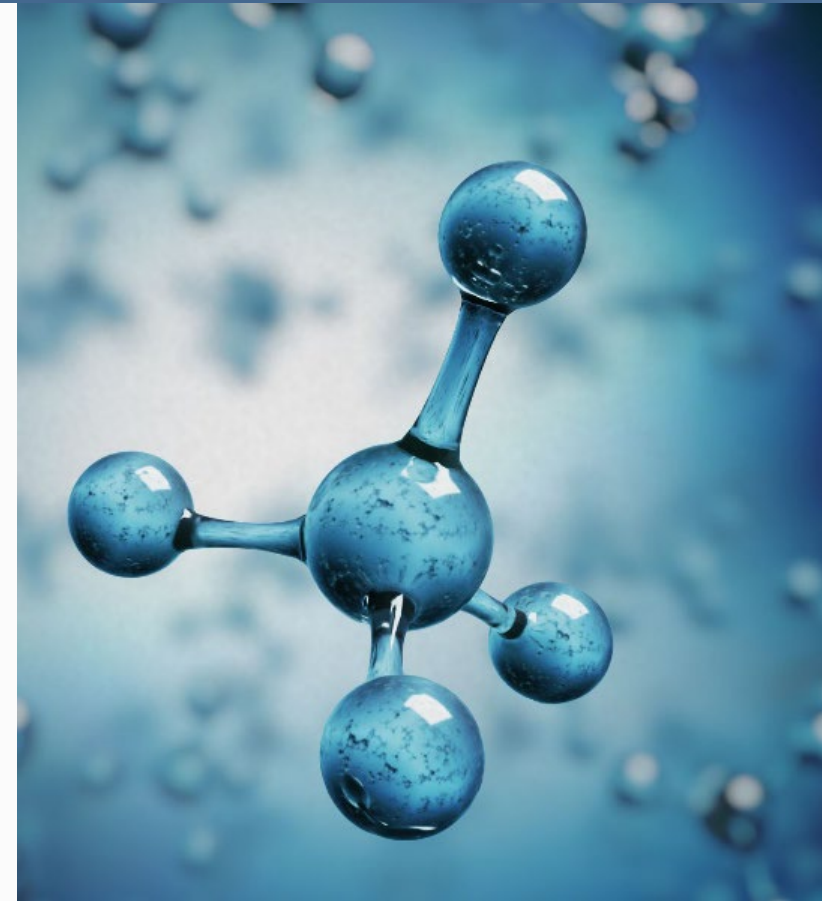
**Education and  
financial incentives**



**Certified safer  
products**



**Safer ingredients  
and innovation**



# Priorities for financial and technical assistance

## Organizations that:

- Go beyond compliance
- Formulate safer products
- Are in overburdened communities

## Products that **benefit**:

- Vulnerable populations



# Rulemaking authority: lead

- Chapter 70A.560 RCW restricts:
  - Intentionally added lead.
  - Lead at or above 1 ppm.
- Concerns about lead in cosmetic products
  - No known safe level of lead exposure, particularly in childhood.
  - 1 ppm lead restriction is compatible with detection limits for analytical test methods.
  - Ecology's and FDA's product testing demonstrate 1 ppm restriction is feasible.
- We received three petitions to change the lead limit to 10 ppm.
  - We denied the petitions because we would need evidence that the 1 ppm restriction is not achievable.

# Rulemaking authority: formaldehyde releasers



Chapter 70A.560 RCW authorizes Ecology to conduct a rulemaking to:

- Identify chemicals used in cosmetics that release formaldehyde (formaldehyde releasers).
- Adopt restrictions on the listed formaldehyde releasers.



# To learn more

## Webpages

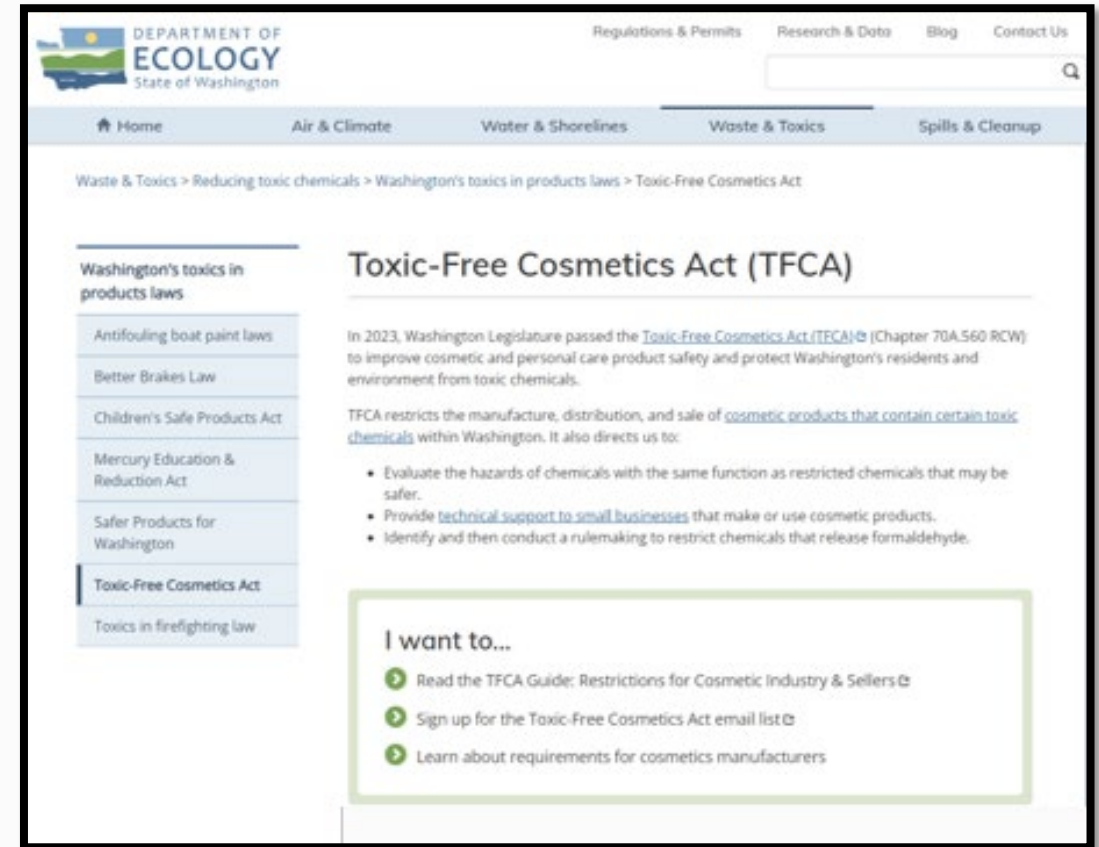
- [Toxic-Free Cosmetics Act \(TFCA\)](#)
- [Safer cosmetics certification subsidy program](#)
- [Safer cosmetics replacement program](#)
- [Cosmetics rulemaking](#)

## Subscribe

- [Toxic-Free Cosmetics email list](#)

## Email us

- [toxicfreecosmetics@ecy.wa.gov](mailto:toxicfreecosmetics@ecy.wa.gov)



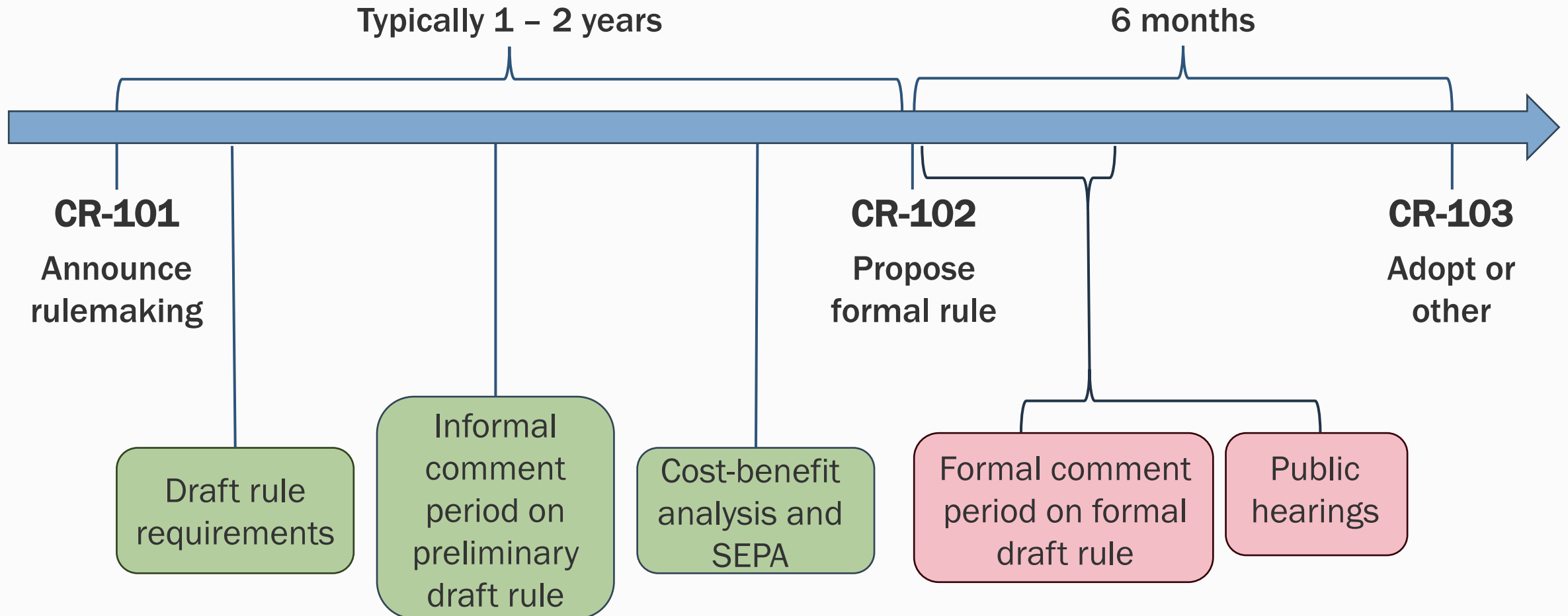
[ecology.wa.gov/tfca](https://ecology.wa.gov/tfca)



# Rulemaking

Formaldehyde releasers

# Rulemaking process



See slide 44 for figure description.

# Opportunities to provide feedback



## **CR-101**

### **INFORMAL comment period**

- Create draft rule requirements.
- Write preliminary draft rule.
- Provide INFORMAL public comment period.
- Significant changes are ok.

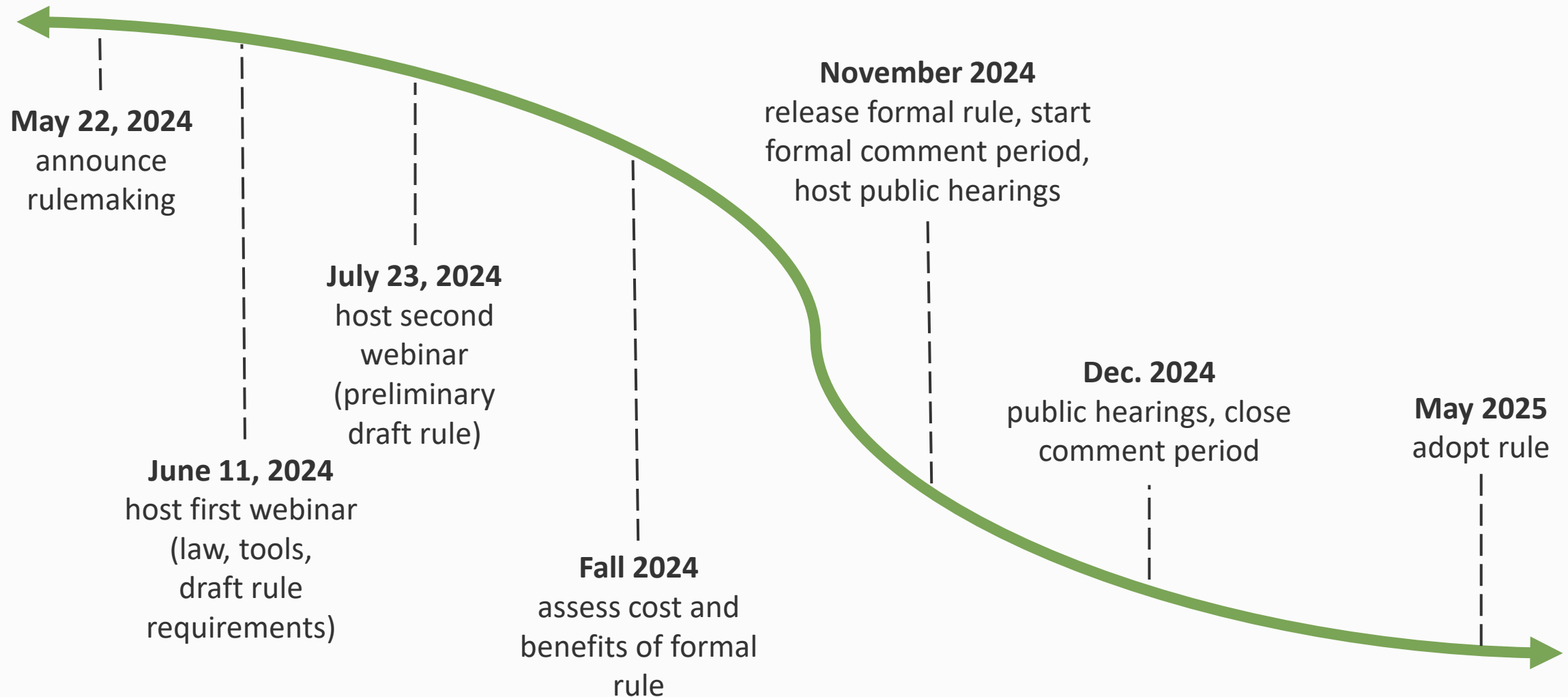
## **CR-102**

### **FORMAL comment period**

- Release formal draft rule, cost-benefit analysis, and SEPA.
- Provide FORMAL public comment period and hearings.
- Must refile the CR-102 form if significant changes to rule.



# Cosmetics rulemaking timeline



# Scope of cosmetics rulemaking

- 1. Identify chemicals** used in cosmetic products that release formaldehyde (formaldehyde releasers).
- 2. Establish restrictions** for formaldehyde releasers.
  - Restrictions on top 10 formaldehyde releasers effective on or after Jan. 1, 2026.
  - Restrictions on other formaldehyde releasers effective on or after Jan. 1, 2027.

# Scope of rulemaking (*cont.*)

## Cosmetic products

- Include articles intended to be rubbed, poured, sprinkled, or applied to the human body for cleansing, beautifying, promoting attractiveness, or altering appearance.
- Doesn't include soap.
- Defined in Chapter 69.04 RCW.





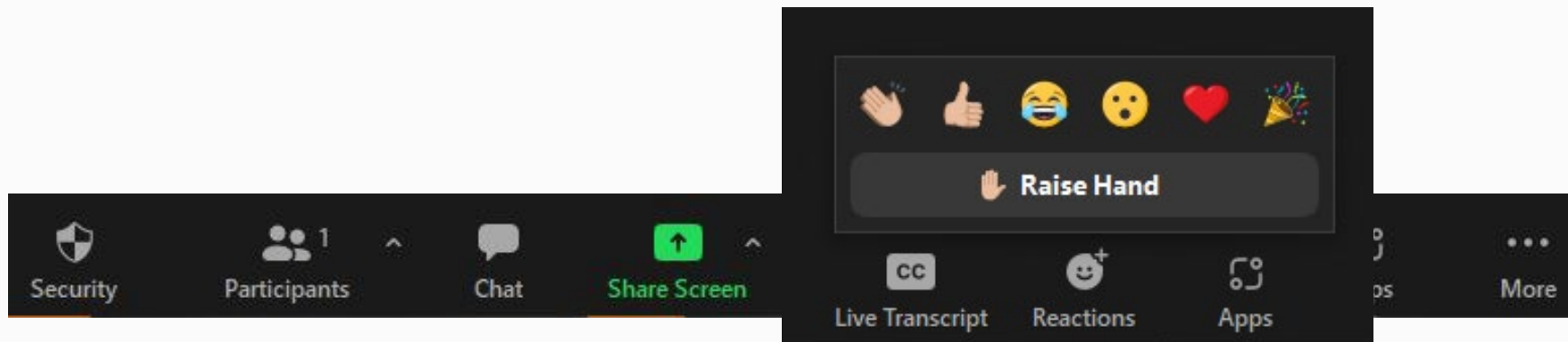
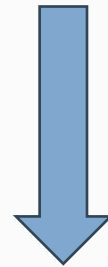
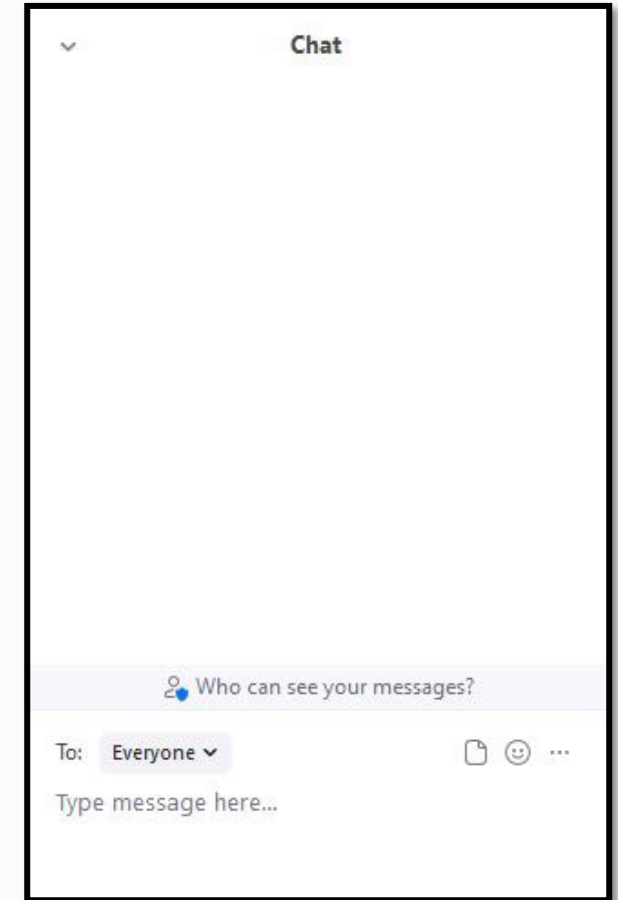
# Discussion on the preliminary draft rule

Formaldehyde releasers

# Tell us your ideas

## To share feedback:

- Type your ideas in the chat.
- Raise your hand to share your ideas verbally.



# Preliminary draft rule structure

## Part A – General

- 010 Authority and purpose
- 015 Applicability
- 020 Acronyms and definitions
- 025 Enforcement and penalties
- 030 Severability
- 035 Relation to other laws and rules
- 040 Environmental justice
- 045 Confidential business information (CBI)

## Part B – Chemicals and cosmetic products

- 110 Formaldehyde releasers

# Applicability (section 015)

## This chapter applies to:

- Any person who manufactures, distributes, or sells or offers for sale a cosmetic product in or into Washington state.
- Cosmetic products, regardless of whether or **not** the product contains drug ingredients regulated by the United States Food and Drug Administration (FDA).

# Applicability (section 015) (cont.)

## This chapter doesn't apply to:

- Cosmetic products excluded from Chapter 70A.560 RCW.
- Cosmetic products transported or stored in Washington state solely for sale or distribution to consumers outside of Washington state.
- Drug ingredients regulated by the FDA.
- Prescription drugs approved by the FDA.
- The recycling or disposal of existing stock.



# Acronyms and definitions (section 020)

## Defined terms

- Cosmetic product
- Existing stock
- Formaldehyde
- Intentionally added chemical
- Manufacturer



# Acronyms and definitions (section 020) (*cont.*)

## Intentionally added chemical

“Intentionally added chemical” means a chemical that serves an intended function in the final product, or in the manufacturing of the product or its ingredient.

## Question to consider

Is there anything unique about cosmetic products that needs to be captured in this definition?

# Equity and environmental justice (section 040)

## Equity and environmental justice goals

- Achieve the highest attainable environmental quality and health outcomes for all people.
- Adopt a racial justice lens.
- Engage communities meaningfully.
- Be transparent and accountable.



# Equity and environmental justice (section 040) (*cont.*)

## Questions to consider

- How else can we address equity and environmental justice while implementing Chapter 70A.560 RCW?
- How should we talk about equity and environmental justice in the preliminary draft rule?

# Formaldehyde releasers (section 110)

## Restriction

- No person may manufacture, sell, or distribute a cosmetic product described in WAC 173-339-015 (2) that contains the following intentionally added formaldehyde releasers, including aliases of the chemical name or CAS RN.
- Two sets of formaldehyde releasers
  - First set includes 10 chemicals.
  - Second set includes 37 chemicals.

# Formaldehyde releasers (section 110) (cont.)

## Questions to consider

- Do you have concerns about the way the restriction is worded?
- Do you have suggestions for wording it differently?



# Formaldehyde releasers (section 110) (cont.)

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
5	Tosylamide/Formaldehyde Resin	25035-71-6
6	2-Bromo-2-Nitropropane-1,3-Diol	52-51-7
7	Sodium Hydroxymethylglycinate	70161-44-3
8	Polyoxymethylene Urea	9011-05-6; 68611-64-3
9	Glyoxal	107-22-2
10	Polyoxymethylene Melamine	100-97-0

# Formaldehyde releasers (section 110) (cont.)

## Questions to consider

- Does the first set of formaldehyde releasers reflect those with the highest prevalence of use in cosmetics?
- What other formaldehyde releasers are important to you and your business? What products use these formaldehyde releasers?





# Formaldehyde releasers (section 110) (cont.)

## Compliance strategy

Ecology presumes the detection of formaldehyde indicates the intentional addition of a restricted formaldehyde releaser or formaldehyde. Manufacturers may rebut this presumption by submitting a statement to ecology that includes the following information.

- The name and address of the person submitting the statement.
- A statement that a formaldehyde releaser was **not** intentionally added. Provide credible evidence supporting that statement and include information, data, or sources relevant to demonstrate that a formaldehyde releaser and formaldehyde were **not** intentionally added. Ecology determines what qualifies as “credible evidence” on a case-by-case basis.

# Formaldehyde releasers (section 110) (*cont.*)

## Example process

- Ecology tests regulated cosmetic products.
- Ecology detects formaldehyde in a regulated cosmetic product and notifies the manufacturer.
- Manufacturer may rebut the presumption or work with Ecology to get to compliance.

# Formaldehyde releasers (section 110) (cont.)

## Questions to consider

- Do you have concerns about the way the compliance strategy is worded?
- Do you have suggestions for wording it differently?



# Formaldehyde releasers (section 110) (*cont.*)

## Compliance schedules

First set of formaldehyde releasers (1-10)

- The restriction takes effect on July 1, 2026.
- May exhaust existing stock until July 1, 2027.

Second set of formaldehyde releasers (11-47)

- The restriction takes effect on July 1, 2027.
- May exhaust existing stock until July 1, 2028.

# Formaldehyde releasers (section 110) (cont.)

## Statutory directive

- Restriction on top 10 list of formaldehyde releasers may take effect on or after Jan. 1, 2026.
- Restriction on additional formaldehyde releasers may take effect on or after Jan. 1, 2027.

## Questions to consider

- Do these dates strike the right balance between protecting human health and the environment while also being feasible for manufacturers?
- If not, how would you change them and why?
- Do you have information about potential costs related to complying with the draft compliance schedules?

# We value your feedback

**Before Aug. 13, share feedback by:**

- Using our online comment form.
- Requesting a meeting.
- Emailing our team.

**Winter 2024, share feedback by:**

- Submitting formal comments.
- Attending public hearings.





# Next steps

Cosmetics rulemaking

# Next steps

- Share feedback during this public comment period: May 22 to August 13.
- We'll use your feedback to develop the formal draft rule.
- We'll conduct an economic assessment in September on the formal draft rule.
- We'll propose the formal draft rule in November.







DEPARTMENT OF  
**ECOLOGY**  
State of Washington

# Thank you

Email us at:

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

Join our email list:

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

Visit the TFCA webpage:

<http://ecology.wa.gov/tfca>

# Accessibility at Ecology



## ADA Accessibility

The Department of Ecology is committed to providing people with disabilities access to information and services by meeting or exceeding the requirements of the Americans with Disabilities Act (ADA), Section 504 and 508 of the Rehabilitation Act, and Washington State Policy #188.

To request an ADA accommodation, contact Ecology by phone at 360-407-6831 or email at [ecyadacoordinator@ecy.wa.gov](mailto:ecyadacoordinator@ecy.wa.gov). For Washington Relay Service or TTY call 711 or 877-833-6341. Visit [Ecology's website](#) for more information.

# Figure Description

- **Slide 16:** This slide shows the three milestones of the rulemaking process. We file the CR-101 form to announce the rulemaking, and this officially starts the rulemaking effort. This phase typically lasts one to two years and includes drafting the rule requirements, an informal comment period on the preliminary draft rule, a cost benefit analysis, and SEPA review. Then we file the CR-102 form and materials to propose the formal draft rule. This process lasts six months. During this time, we start the formal comment period (which typically lasts 30 – 45 days) and host formal hearings. If the Ecology director supports adopting the rule, then we file the CR-103 form and materials with the Code Reviser.