OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED: 10/30/2026 12:16 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Adoption of rules to implement the Toxic Free Cosmetics Program (SB 546, 2023)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/23/2026 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT:
Brett Sherry
971-673-0442
publichealth.rules@odhsoha.oregon.gov
800 NE Oregon St. Suite 640
Portland, OR 97232

Filed By:
Public Health Division
Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/17/2026
TIME: 10:00 AM
OFFICER: Staff

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 971-277-2343
CONFERENCE ID: 908815045
SPECIAL INSTRUCTIONS:
This hearing is being held remotely via Microsoft Teams. To provide oral (spoken) testimony during this hearing, please contact publichealth.rules@odhsoha.oregon.gov to register to receive the link for the Microsoft Teams video conference via calendar appointment, or you may access the hearing using the meeting URL above. Alternatively, you may dial 971-277-2343, Phone Conference ID 908 815 045# for audio (listen) only. This hearing will close no later than 11:00AM but may close as early as 10:30AM if everyone who signs up to provide testimony has been heard from.

Accessibility Statement: For individuals with disabilities or individuals who speak a language other than English, OHA can provide free help. Some examples are: sign language and spoken language interpreters, real-time captioning, braille, large print, audio, and written materials in other languages. If you need help with these services, please contact the Public Health Division at 971-673-1222, 711 TTY or publichealth.rules@odhsoha.oregon.gov at least 48 hours before the meeting. All relay calls are accepted. To best ensure our ability to provide a modification please contact us if you are considering attending the meeting and require a modification. The earlier you make a request the more likely we can meet the need.

NEED FOR THE RULE(S):

The 2023 Oregon State Legislature passed Senate Bill (SB) 546 (Oregon Laws 2023, chapter 575) establishing the Toxic Free Cosmetics Program. ORS 431A.335 directs the Oregon Health Authority (OHA) to develop rules to implement this new program.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

- SB 546: https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB546
- ORS 431A.330-431A.349: https://www.oregonlegislature.gov/bills_laws/ors/ors431A.html
- OAR 333-016-2035:
https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=320975
- California Health & Safety Code §108980:
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=108980&lawCode=HSC
- New York Environmental Conservation Law §37-0117: https://www.nysenate.gov/legislation/laws/ENV/37-0117
- New York Department of Conservation's SGS PQL Evaluation for TCCP August 2023:
https://www.theic2.org/wp-content/uploads/2023/12/SGS-PQL-Evaluation-for-TCCP-August-2023-v3.pdf

---

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

SB 546 (Oregon Laws 2023, chapter 575) prohibits the sale of cosmetics that contain certain chemicals known to cause negative health outcomes. Some of these chemicals are commonly found in products used primarily in communities of color, including formaldehyde, mercury, and lead. Formaldehyde is commonly used in hair straightening products, mercury is found in skin-lightening creams, and lead has been found in hair extensions/braids. Adopting rules to implement a regulatory program that bans the sale of cosmetic products that contain these chemicals will prevent exposure and improve health outcomes in communities of color and improve racial equity in Oregon.

In addition to the prohibited chemicals, SB 546 also directs OHA to develop a list of high-priority chemicals of concern (HPC) used in cosmetic products. Manufacturers of cosmetic products that contain one or more chemicals on this list will be required to include a notice for Oregon consumers on the manufacturer's website informing them of the potential health effects associated with the chemical(s) in their product. This will allow consumers to be better informed about the products that they purchase. These rules require manufacturers to link to the OHA's Toxic Free Cosmetics website, where additional information will be available in multiple languages and meet accessibility requirements.

Many professionals working as beauticians, estheticians, and hair stylists are people of color, immigrants, or women owned small businesses, and they may be disproportionately affected by these rules.

FISCAL AND ECONOMIC IMPACT:

Manufacturing companies that produce and sell cosmetic products that contain prohibited chemicals will experience an economic loss, as they will not be able to sell their product in Oregon. The manufacturer will be required to remove

prohibited chemicals and reformulate their cosmetic products if they plan to continue selling their products in Oregon. This reformulation is likely to come at a cost to the manufacturer. Conversely, manufacturers that are currently utilizing safer alternatives will not be required to reformulate and may see an increase in demand and sales. Prohibiting harmful chemicals in cosmetics creates a level playing field that rewards companies for using safer alternatives by eliminating unfair competition from companies that use inexpensive, toxic ingredients. Regulating harmful ingredients also increases demand for healthier alternatives, which may lower production costs over time.

Professions that currently utilize cosmetics banned by these regulations, including beauticians, estheticians, and hair stylists, will need to find alternative products to do their job. These products may have higher costs and may not be as readily available. Consumers will have fewer options to choose from when purchasing cosmetic products, and the remaining options may come at a higher cost.

ORS 431A.335 directs OHA to develop a list of HPCs. This list is to be adopted into rule and must be revised every three years. Manufacturers producing cosmetics that contain one or more chemicals on the list will be required to post notifications on their website containing health warnings about the HPC in their product. Adding this notification will require staff time and may have a negative impact on the number of products sold by the company.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) OHA will be solely responsible for implementing and enforcing the Toxic Free Cosmetics Program. The Oregon Legislature provided position authority (1 FTE) and a budget of $270,392 per biennium to implement this program. This budget covers personnel costs, services and supplies, legal costs, toxicologist consultation, and contracting costs with analytical laboratories. No other units of government are expected to be impacted by these rules. Consumers of cosmetic products will be required to find alternative products which may not be readily available and/or come at an increased cost.

(2)(a) These rules will impact over 4,500 *businesses in Oregon that provide hair, nail, and skin care services (beauticians, estheticians, hair stylists, etc.). It will also impact Oregon businesses that manufacture cosmetics that contain chemicals on the prohibited list. There are between 24-30 ** cosmetics and personal care manufacturing companies headquartered or operating in Oregon. It is unknown how many of these companies are considered small businesses or if they utilize chemicals prohibited by these regulations.

* PoiData.io (Skin Care & Aesthetic Services) & BYTE SCRAPER (Nail Salons)
https://poidata.io/report/hair-salon/united-states/oregon
https://bytescraper.com/b2b-database/country/united-states/list-of-nail-salons-in-oregon
** PoiData.io (cosmetic Manufacturers) & Thomasnet (Personal Care Product Suppliers & Manufacturers)
https://poidata.io/report/cosmetic-products-manufacturer/united-states/oregon
https://www.thomasnet.com/suppliers/oregon/all-cities/personal-care-products-57721656

(b) Companies that manufacture cosmetic products containing prohibited chemicals will be required to remove those products from sale in Oregon. Manufacturers will also be required to notify consumers if their product contains any chemicals at de minimis on the HPC list. This notification must be provided on the manufacturer's website, requiring staff time to set up the website to display the notification.

(c) Manufacturers will not be able to sell products that contain prohibited chemicals in Oregon, which will have a negative impact on sales. Staff will be required to shift delivery of prohibited products away from the Oregon market and will need to ensure online purchases are not allowed in the state. Manufacturers will need to include notifications on their websites regarding products that contain high-priority chemicals of concern for use in cosmetics. This will require staff time to set up and maintain.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Two small businesses participated in the Rule Advisory Committee to develop the Oregon Administrative Rules to implement the regulation.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
333-016-4001, 333-016-4010, 333-016-4020, 333-016-4025, 333-016-4030, 333-016-4040, 333-016-4045, 333-016-4060, 333-016-4075, 333-016-4080

ADOPT: 333-016-4001

RULE SUMMARY: Adopt OAR 333-016-4001 – This rule identifies the effective date on which rules adopted by this rulemaking apply to cosmetic products sold or offered for sale by a manufacturer.

CHANGES TO RULE:

333-016-4001
Toxic Free Cosmetic Program; Effective Date
(1) OAR 333-016-4001 to 333-016-4080 implement the Toxic-Free Cosmetics Act established by the Legislature in ORS 431A.330 to 431A.349. The presence of a high priority chemical of concern in a cosmetic product does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws. ¶
(2) These rules apply to any cosmetic product sold or offered for sale in Oregon by a manufacturer on or after January 1, 2027, that contains a high priority chemical of concern used in cosmetic products listed in OAR 333-016-4020 or an intentionally added chemical or class of chemical listed in OAR 333-016-4060.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

ADOPT: 333-016-4010

RULE SUMMARY: Adopt OAR 333-016-4010 – This rule identifies definitions.

CHANGES TO RULE:

333-016-4010
Definitions
The following definitions apply to OAR 333-016-4001 to 333-016-4080.¶
(1) "Authority" means the Oregon Health Authority. ¶
(2) "Authoritative source" means any of the following sources, including subsequent revisions when adopted by the authoritative body, identifying high priority chemicals of concern: ¶
(a) United States Environmental Protection Agency's (USEPA) Integrated Risk Information System identifying chemicals as:¶
(A) Being "carcinogenic to humans"; ¶
(B) "Likely to be carcinogenic to humans"; or¶
(C) Found to have a reference dose or reference concentration based on neurotoxicity. ¶
(b) Monographs on the Potential Human Reproductive and Developmental Effects, published by the federal National Toxicology Program, Office of Health Assessment and Translation, identifying reproductive or developmental toxicants.¶
(c) Guidance, statutes, or rules developed by the California Safe Cosmetics Program, California Department of Public Health, including the Reportable Ingredient List and the California Health and Safety Code, Division 104, Part 3, Chapter 14, Cosmetic Safety (commencing with Section 108980). ¶
(d) Guidance, statutes, or rules developed by the Washington Department of Ecology, including the Toxic-Free Cosmetics Act, Chapter 173-333 of Title 173 of the Washington Administrative Code. ¶
(e) Guidance, statutes, or rules developed by the State of New York, Department of Environmental Conservation relating to cosmetic or personal care, including New York Conservation Law §37-0117.¶
(f) Annex II of the European Union Cosmetics Regulation (EC) No. 1223/2009. ¶
(g) European Chemicals Agency (ECHA) Chemicals Database.¶
(h) Any guidance developed by other federal, state, international, or nongovernmental organizations with applicable expertise identifying chemicals as being potentially harmful to human health. ¶
(3) "Authority website" means the Authority's website for the Oregon Toxic-Free Cosmetics Program, currently at www.healthoregon.org/toxicfreecosmetics.¶
(4) "Chemical Abstracts Service Registry Number" or "CAS Registry Number" means the number assigned for the identification of a particular chemical by the Chemical Abstracts Service (CAS), a service of the American Chemical Society that indexes and compiles abstracts of worldwide chemical literature called Chemical Abstract.¶
(5) "Contaminant" means trace amounts of chemicals that are incidental to manufacturing and that serve no intended function in the product component, including but not limited to: ¶
(a) Unintended by-products of chemical reactions during the manufacture of the product component; ¶
(b) Trace impurities in feedstock; ¶
(c) Incompletely reacted chemical mixtures; and ¶
(d) Degradation product.¶
(6)(a) "Cosmetic product" means an article 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 any article intended for use as a component of such an article.¶
(b) "Cosmetic product" includes cosmetics marketed to professionals. ¶
(c) "Cosmetic product" does not include: ¶
(A) Soap; ¶
(B) Dietary supplements; or ¶
(C) Food and drug ingredients regulated by the United States Food and Drug Administration ("FDA") except as otherwise specified in OAR 333-016-4060(4).¶
(7) "De minimis level" means: ¶
(a) For a chemical that is an intentionally added chemical, the practical quantification limit; or ¶
(b) For a chemical that is a contaminant, a concentration of 100 parts per million.¶
(8) "HPC" means high priority chemicals of concern used in cosmetic products, as described in OAR 333-016-4020.¶
(9) "Intentionally added chemical" means a chemical in a product that serves an intended function in the product component¶
(10)(a) "Manufacturer" means any person that produces a cosmetic product or an importer or domestic distributor

of a cosmetic product. ¶
(b) "Manufacturer" does not mean:¶
(A) A retailer that sells to consumers cosmetic products produced by a third party. ¶
(B) A grocery wholesaler or grocery retailer that contracts with a third party to produce cosmetic products on behalf of and under the brand of the grocery wholesaler or grocery retailer. ¶
(c) For the purposes of this subsection, "importer" means the owner of the product.¶
(11) "Practical quantification limit" (PQL) means the lowest concentration of a chemical that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness and comparability during routine laboratory operating conditions.¶
(12) "Prominently displayed" means immediately visible and adjacent to the product image or listing on the product's detail page and appearing in legible type that contrasts with the surrounding content. The font size shall be at least 75percent of the size of the adjacent text on the product's detail page.¶
(13) "Respiratory sensitizer" means a substance that may lead to hypersensitivity of the airways following inhalation of the substance.¶
(14) "Skin sensitizer" means a substance that may lead to an allergic response following skin contact.¶
(15) "Product's detail page" means a dedicated page on a manufacturer's website that provides all essential information for a single product.¶
(16) "These rules" means OAR 333-016-4001 to 333-016-4080.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

ADOPT: 333-016-4020

RULE SUMMARY: Adopt OAR 333-016-4020 – This rule designates high priority chemicals of concern used in cosmetic products (HPC).

CHANGES TO RULE:

333-016-4020
High Priority Chemicals of Concern Used in Cosmetic Products (HPCs)
(1) The following chemicals are designated as high priority chemicals of concern used in cosmetic products (HPCs):¶
(a) Benzene (71-43-2).¶
(b) Acetaldehyde (75-07-0).¶
(c) Anthraquinone (84-65-1).¶
(d) Butyl paraben (94-26-8).¶
(e) 4-Hydroxybenzoic acid (99-96-7).¶
(f) Styrene (100-42-5).¶
(g) Acrylonitrile (107-13-1).¶
(h) Vinyl acetate (108-05-4).¶
(i) Triphenyl phosphate (TPP) (115-86-6).¶
(j) 1,4-dioxane (123-91-1).¶
(k) Tricresyl phosphate (1330-78-5).¶
(l) Estragole (140-67-0).¶
(m) C.I. disperse blue 1 (2475-45-8).¶
(n) Trisodium nitrilotriacetate (5064-31-3).¶
(o) 2-Ethyl-hexyl-4- methoxycinnamate (5466-77-3).¶
(p) Octamethylcyclotetrasiloxane (D4) (556-67-2).¶
(q) Musk xylene (81-15-2).¶
(2) This list of HPCs shall be posted to the Oregon Health Authority's (Authority's) website and shall include information regarding the known health impacts associated with exposure to the chemical or class of chemicals. The Authority shall update the list of HPCs on the Authority's website no later than one year after the date on which the list of HPCs has been modified in rule in accordance with OAR 333-016-4030.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

ADOPT: 333-016-4025

RULE SUMMARY: Adopt OAR 333-016-4025 – This rule identifies a specific practical quantification limit (PQL) for each high priority chemical of concern used in cosmetic products (HPC) if intentionally added and a single practical quantification limit for all HPCs that are contaminants.

CHANGES TO RULE:

333-016-4025
Manufacturer Disclosure of High Priority Chemicals of Concern Used in Cosmetic Products (HPCs): Practical Quantification Limits
(1) The practical quantification limit for a high priority chemical of concern used in cosmetic products (HPC) that is a contaminant is 100 parts per million (ppm).¶
(2) The practical quantification limits for intentionally added chemicals are the limits established in Exhibit A of this rule, incorporated by reference.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

NOTE: Attachments referenced are attached to this document. You may view the attachment 333-016-4025.pdf from the Attachments panel. Alternately, you may view the attachments at the following link: https://secure.sos.state.or.us/oard/viewAttachment.action?ruleVrsnRsn=341404

ADOPT: 333-016-4030

RULE SUMMARY: Adopt OAR 333-016-4030 – This rule identifies how the Oregon Health Authority (OHA) is to add or remove chemicals from the high priority chemicals of concern used in cosmetic products (HPC) list (OAR 333-016-4020). OHA may include a class or subclass of chemicals on the HPC list if identified by an Authoritative Source. This rule gives additional criteria for adding chemicals to the HPC list. The rule states that OHA should consider removing chemicals that have been removed from another state agency's list and may remove chemicals no longer used in cosmetic products. It requires OHA to review and modify the list of HPCs every three years. This rule specifies that the HPC list may only be modified by the rulemaking process given in ORS chapter 183.

CHANGES TO RULE:

333-016-4030
Modifications of List for High Priority Chemicals of Concern Used in Cosmetic Products (HPCs)
(1) On or after the effective date of these rules, the Oregon Health Authority (Authority) shall also consider adding a chemical or class of chemicals to the list of high priority chemicals of concern used in cosmetic products (HPCs) in OAR 333-016-4020 if the chemical:¶
(a) Is found to have the potential, as demonstrated by credible, peer-reviewed scientific evidence to:¶
(A) Harm the normal development of a fetus or child or cause other developmental toxicity;¶
(B) Act as a carcinogen;¶
(C) Cause genetic damage or reproductive harm;¶
(D) Disrupt the endocrine system;¶
(E) Damage the nervous system, immune system or organs;¶
(F) Cause other systemic toxicity;¶
(G) Cause skin or respiratory sensitization;¶
(H) Cause skin, eye, or respiratory irritation or damage;¶
(I) Be a very persistent toxic substance by having a half-life greater than or equal to one of the following:¶
(i) A half-life in soil or sediment of greater than 180 days.¶
(ii) A half-life greater than or equal to 60 days in water or evidence of long-range transport; or¶
(J) Be a bioaccumulative toxic substance by having a bioconcentration factor or bioaccumulation factor greater than or equal to 5,000, or if neither are available, having a logarithm of the octanol-water partition coefficient ("log Kow") greater than 5.0; and¶
(b) Has been found through:¶
(A) Biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine or other bodily tissues or fluids;¶
(B) Sampling and analysis to be present in household dust, indoor air, drinking water or elsewhere in the home environment; or¶
(C) Monitoring to be present in fish, wildlife or the natural environment.¶
(c) Is identified in guidance developed by international and nongovernmental organizations as being potentially harmful to human health.¶
(2) The Authority shall review and modify the list of HPCs every three years. In completing the modifications under this section, the Authority: ¶
(a) Shall consider adding or removing a chemical or class of chemicals from the list of high priority chemicals if the chemical or class of chemicals is identified by or added to or removed from a list maintained by an Authoritative source or by another state or federal agency; and ¶
(b) May remove a chemical or class of chemicals from the list of HPCs if the Authority determines that the chemical or class of chemicals is no longer being used in cosmetic products. ¶
(3) The list of HPCs in OAR 333-016-4020 may only be modified by following the rulemaking process as provided for in ORS chapter 183.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

ADOPT: 333-016-4040

RULE SUMMARY: Adopt OAR 333-016-4040 – This rule provides the process and requirements for the notices that manufacturers must post on their websites for cosmetic products containing high priority chemicals of concern used in cosmetic products (HPCs) at or above de minimis. The process requires the hyperlinked statement “Oregon Toxic-Free Cosmetics Act – Warning” be on the Product Detail page for each cosmetic product. The link must lead to a block of text specified in rule on another page of the manufacturer’s website. The block must contain a second link leading to healthoregon.org/toxicfreecosmetics. The rule stipulates that these requirements do not apply to the cosmetic product’s container, but that they will apply if the HPCs is transferred from the container to the product at or above de minimis. If that occurs, the rule provides a process for OHA to issue a notice of violation and for the manufacturer to respond with a statement of compliance.

CHANGES TO RULE:

333-016-4040
Notice Requirements
(1) A manufacturer of a cosmetic product sold or offered for sale in this state that contains a high priority chemical of concern used in cosmetic products (HPC) listed in OAR 333-016-4020 as an individual chemical or a member of a class or subclass of chemicals, in an amount at or above the de minimis level shall include a Prominently Displayed notice for Oregon consumers on the manufacturer's website. The notice must contain, in this order:¶
(a) The words "Oregon Toxic-Free Cosmetics Act - Warning" that are hyperlinked and are Prominently Displayed on the product's detail page on the manufacturer's website. This phrase is not considered to be Prominently Displayed if the purchaser must search for it in the general content of the manufacturer's website. ¶
(b) The link in subsection (1)(a) must be hyperlinked to the following block of text on the manufacturer's website. "This product may expose you to [list all HPCs found in product, separated by commas]. According to Authoritative sources recognized by the State of Oregon, as defined in OAR 333-016-4010(2), these substances may cause negative health effects. Examples include, but are not limited to cancer, endocrine disruption or reproductive toxicity. The specific hazard(s) associated with this product depends on the chemicals used. See healthoregon.org/toxicfreecosmetics for specific hazards associated with the chemicals listed above." This block of text may be located in a different section of the manufacturer's website than the phrase required in subsection (1)(a).¶
(2) This rule does not apply to the packaging of a cosmetic product that is intended to be discarded before the product is used. ¶
(3) This rule does not apply to the applicator, container, or case in which the cosmetic product itself is found. Section (4) will apply if one or more HPCs transfers to the cosmetic product itself as contaminants at or above de minimis and are detected through testing.¶
(4) If the Oregon Health Authority (Authority) has reason to believe that a cosmetic product that contains a HPC is being sold or offered for sale in this state in violation of ORS 431A.340, the Authority may issue a written notice of such violation and require that the manufacturer provide a statement of compliance using the form available on the Authority website. The manufacturer must submit the statement of compliance within 10 calendar days after receipt of a request from the Authority. ¶
(5) To prove compliance under section (1), the manufacturer must: ¶
(a) Demonstrate through submission of test results from a third-party laboratory that the cosmetic product does not contain the HPC at or above a de minimis level; or ¶
(b) Show that the manufacturer complied with the notice requirements of section (1).¶
(6) The Authority may impose civil penalties against a manufacturer for each failure to comply with the requirements of this rule that is not resolved within 90 calendar days of written notice by the Authority. If a manufacturer does not come into compliance within 90 calendar days of written notification by the Authority, civil penalties will be assessed in accordance with OAR 333-016-4080.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

ADOPT: 333-016-4045

RULE SUMMARY: Adopt OAR 333-016-4045 – This rule specifies the email address that must be used by the Oregon Health Authority and manufacturers relating to notice requirements and prohibited chemicals.

CHANGES TO RULE:

333-016-4045
Formal Communications Regarding Toxic Free Cosmetics
Formal communication between manufacturers and the Oregon Health Authority relating to notice requirements and prohibited chemicals shall be to and from ToxicFreeCosmetics@oha.oregon.gov.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

ADOPT: 333-016-4060

RULE SUMMARY: Adopt OAR 333-016-4060 – This rule identifies, per statute, the chemicals and classes of chemicals in cosmetic products that manufacturers may not manufacture, sell, or distribute for sale in Oregon.

CHANGES TO RULE:

333-016-4060
List of Prohibited Chemicals, Subclasses or Classes of Chemicals
(1) Manufacturers may not knowingly manufacture, sell, offer for sale, distribute for sale or distribute for use in this state any cosmetic product that contains any of the following intentionally added chemicals or classes of chemicals above the practical quantification limit: ¶
(a) Ortho-phthalates, including but not limited to:¶
(A) Dimethyl phthalate (131-11-3).¶
(B) Diethyl phthalate (84-66-2).¶
(C) Dibutyl phthalate (84-74-2).¶
(D) Diisononyl phthalate (28553-12-0), (68515-48-0).¶
(E) Diethylhexyl phthalate (DEHP) (117-81-7).¶
(F) Acryloyloxyethyl phthalate (30697-40-6).¶
(G) Butyl phthalyl butyl glycolate (85-70-1).¶
(H) Butyl benzyl phthalate (85-8-7).¶
(b) Perfluoroalkyl and polyfluoroalkyl substances, including but not limited to:¶
(A) Perfluorodecalin (306-94-5).¶
(B) Polytetrafluoroethylene acetoxypropyl betaine (123171-68-6).¶
(C) Dioctyldodecyl fluoroheptyl citrate (214334-16-4).¶
(D) Tetrafluoropropene (29118-24-9).¶
(E) Polytetrafluoroethylene (PTFE) (9002-84-0).¶
(F) Perfluorononyl dimethicone NA.¶
(G) Methyl perfluorobutyl ether (163702-07-6).¶
(H) Methyl perfluoroisobutyl ether (163702-08-7).¶
(I) Perfluorohexane (355-42-0).¶
(J) Perfluorohexylethyl triethoxysilane (51851-37-7).¶
(K) Pentafluoropropane (460-73-1).¶
(L) Perfluoroperhydrophenanthrene (306-91-2).¶
(M) Perfluorononylethyl stearyl dimethicone NA.¶
(N) Perfluorooctylethyl triethoxysilane (101947-16-4).¶
(O) Dioctyldodecyl fluoroheptyl citrate NA.¶
(P) Perfluorooctylethyl trimethoxysilane (83048-65-1).¶
(Q) Perfluorohexylethyl triethoxysilane (51851-37-7).¶
(R) Polysilicone-7 (146632-08-8).¶
(c) Formaldehyde (CAS Registry Number 50-00-0) and formaldehyde releasing agents, including but not limited to:¶
(A) DMDM Hydantoin (6440-58-0).¶
(B) Diazolidinyl Urea (78491-02-8).¶
(C) Imidazolidinyl Urea (39236-46-9).¶
(D) Quaternium-15 (4080-31); (51229-78-8).¶
(E) Tosylamide/Formaldehyde Resin (PTSAF) (25035-71-6).¶
(F) 2-Bromo-2-Nitropropane-1,3-Diol (Bronopol) (52-51-7).¶
(G) Sodium Hydroxymethylglycinate (70161-44-3).¶
(H) Polyoxymethylene Urea (9011-05-6); (68611-64-3).¶
(I) Polyoxymethylene Melamine (9003-08-1).¶
(J) 5-Brom-5-Nitro-1,3-Dioxane (Bronidox) (30007-47-7).¶
(K) 7-Ethylbicyclo-oxazolidine (Bioban CS1246) (7747-35-5).¶
(L) Benzylhemiformal (14548-60-8).¶
(M) Dimethylhydantoinormaldehyde (DMHF) (26811-08-5); (9065-13-8).¶
(N) Dimethylol Glycol (3586-55-7).¶
(O) Dimethylol Urea (140-95-4).¶
(P) Dimethyl Oxazolidine (51200-87-4).¶
(Q) MDM Hydantoin (116-25-6); (27636-82-4); (16228-00-5).¶

(R) Methemamine (100-97-0).¶
(S) Methylal (109-87-5).¶
(T) Polyoxymethylene (30525-89-4).¶
(U) Polyoxmethylene (9002-81-7).¶
(V) Tetramethylolglycoluril (5395-50-6).¶
(W) Timonacic (When used in heat-activated hair straighteners (444-27-9)).¶
(X) Tris-Hydroxymethylnitromethane (126-11-4).¶
(Y) Urea, polymer with formaldehyde, isobutylated (68002-18-6).¶
(d) Methylene glycol (463-57-0);¶
(e) Mercury and mercury compounds (7439-97-6);¶
(f) Triclosan (3380-34-5);¶
(g) m-Phenylenediamine and its salts (108-45-2); and¶
(h) o-Phenylenediamine and its salts (95-54-5).¶
(2) A manufacturer may not knowingly manufacture, sell, offer for sale, distribute for sale or distribute for use in this state any cosmetic product that contains lead or lead compounds (CAS Registry Number 7439-92-1) at 10 parts per million or above, or as otherwise determined by the Oregon Health Authority (Authority) by rule.¶
(3) This rule does not apply to the packaging of a cosmetic product that is intended to be discarded before the product is used. ¶
(4) This rule applies to cosmetic products even if the product contains drug ingredients regulated by the United States Food and Drug Administration (FDA). ¶
(5) This rule does not apply to the applicator, container, or case in which the cosmetic product itself is found. However, if the applicator, container, or case transfers the HPC to the product itself as a contaminant at or above de minimis and is detected through testing, the rule will apply.¶
(6) If a manufacturer continues to manufacture, sell, offer for sale, distribute for sale, or distribute for use in this state any cosmetic product that contains a chemical, subclasses chemicals or classes of chemicals prohibited by this rule, the Authority shall provide the manufacturer with written notice informing the manufacturer of the violation and requiring that the manufacturer provide a statement of compliance using the form available on the Authority website. The notice shall state that the manufacturer may avoid a civil penalty by submitting proof to the Authority that it is not in violation as alleged in the notice. The manufacturer must submit the statement of compliance within 10 calendar days after receipt of a request from the Authority.¶
(7) To prove compliance under this rule, the manufacturer must demonstrate through submission of test results from a third-party laboratory that the cosmetic product itself does not contain the intentionally added chemicals or class of chemicals at or above the practical quantification limit.¶
(8) The Authority may impose civil penalties against a manufacturer for each failure to comply with the requirements of this rule that is not resolved within 90 calendar days of written notice by the Authority. If a manufacturer does not come into compliance within 90 calendar days of written notification by the Authority, civil penalties will be assessed in accordance with OAR 333-016-4080.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

ADOPT: 333-016-4075

RULE SUMMARY: Adopt OAR 333-016-4075 – This rule designates the chemicals and classes of chemicals that manufacturers may no longer intentionally add, if at or above their practical quantification limits (PQL), to cosmetic products that they manufacture, sell, or distribute in Oregon.

CHANGES TO RULE:

333-016-4075
List of Prohibited Intentionally Added Chemicals or Classes of Chemicals: Practical Quantification Limits
The practical quantification limits for prohibited intentionally added chemicals are the limits established in Exhibit A of this rule, incorporated by reference.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

NOTE: Attachments referenced are attached to this document. You may view the attachment 333-016-4075.pdf from the Attachments panel. Alternately, you may view the attachments at the following link: https://secure.sos.state.or.us/oard/viewAttachment.action?ruleVrsnRsn=341409

ADOPT: 333-016-4080

RULE SUMMARY: Adopt OAR 333-016-4080 – This rule provides for enforcement measures and allows the Oregon Health Authority (OHA) to impose civil penalties of up to $5,000 for first violation or up to $10,000 for each continuing violation of OAR-333-016-3040 or OAR-333-016-3060. The rule identifies the steps that a manufacturer must take to cure a violation. It states the factors that OHA must consider when imposing penalties.

CHANGES TO RULE:

333-016-4080
Enforcement and Civil Penalties
(1) The Oregon Health Authority (Authority) may impose a civil penalty on a manufacturer for a violation of any provision of ORS 431A.340 or 431A.345, or these rules. A civil penalty may not exceed:¶
(a) $5,000 for the first violation. ¶
(b) $10,000 for the second and each subsequent violation.¶
(2) For purposes of assessing civil penalties under this rule, a violation consists of a single course of conduct with regard to an entire cosmetic product line that is sold or offered for sale in this state.¶
(3)(a) If a manufacturer violates the notification requirement described in OAR 333-016-4040 the Authority shall provide the manufacturer with written notice informing the manufacturer of the violation and stating that the manufacturer may avoid a civil penalty for the violation by providing the proper notice required under OAR 333-016-4040 within 90 calendar days or providing a statement of compliance in accordance with OAR 333-016-4040(5) and (6).¶
(b) If the manufacturer fails to cure the violation within the first 90 days, the Authority may impose a civil penalty not to exceed $5,000.¶
(c) For a continuing violation, each 90-day period that the violation continues after the preceding imposition of a civil penalty is considered a separate offense subject to a separate civil penalty not to exceed $10,000. The Authority is not required to provide the manufacturer with an opportunity to cure the continuing violation before imposing the separate civil penalty.¶
(4)(a) If a manufacturer continues to manufacture, sell, offer for sale, distribute for sale, or distribute for use in this state any cosmetic product that contains an intentionally added chemical or classes of chemicals prohibited by OAR 333-016-4060, the Authority shall provide the manufacturer with written notice informing the manufacturer of the violation. The notice shall state that the manufacturer may avoid a civil penalty by submitting the statement of compliance no later than 10 calendar days from the date of the Authority's written notice to the manufacturer in accordance with OAR 333-016-4060(3) and (4).¶
(b) If the manufacturer does not submit proof that it is in compliance with the requirements of OAR 333-016-4060 or fails to cure the violation within 90 days, the Authority may impose a civil penalty not to exceed $5,000.¶
(c) For a continuing violation, each day that the violation continues after the preceding imposition of a civil penalty is considered a separate offense subject to a civil penalty not to exceed $10,000. The Authority is not required to provide the manufacturer with an opportunity to cure the continuing violation before imposing the separate civil penalty.¶
(5) In imposing a penalty under these rules, the Authority must consider the following factors:¶
(a) The past history of the manufacturer in taking all feasible steps or following all feasible procedures necessary or appropriate to correct any violation.¶
(b) Any prior violations of statutes, rules, orders or permits pertaining to high priority chemicals of concern (HPC) used in children's products.¶
(c) Any prior violations of statutes, rules, orders or permits pertaining to intentionally added chemicals or classes of chemicals prohibited by OAR 333-016-4060.¶
(d) The gravity and magnitude of the violation.¶
(e) Whether the violation was a sole event, repeated, or continuous.¶
(f) Whether the violation was a result of an unavoidable accident, negligence, or an intentional act.¶
(g) The violator's cooperativeness and efforts to correct the violation.¶
(h) The economic and financial conditions of the manufacturer incurring a penalty.¶
(6) Civil penalties will be imposed in the manner provided in ORS 183.745.
Statutory/Other Authority: ORS 413.042, ORS 431A.330 - 431A.349
Statutes/Other Implemented: ORS 431A.330 - 431A.349