

March 2, 2023

Senator Janeen Sollman
Chair, Senate Energy and Environment Committee
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

RE: Testimony for Senate Committee on Energy and Environment

Chair Sollman and Members of the Committee on Energy and Environment:

On behalf of the members of the Personal Care Products Council (PCPC), I am writing to follow up on verbal testimony to the Committee on February 28. PCPC is opposed to Senate Bill 546, legislation to ban the sale of cosmetics with certain ingredients. We appreciate the opportunity to provide comments.

The Personal Care Products Council is the leading national trade association representing cosmetics and personal care products companies and serving as the voice on scientific, legal, regulatory, legislative and international issues for the global cosmetics industry. The personal care products industry holds sacred the trust families put in the safety of their products. Our member companies invest substantial resources in scientific research and safety processes to ensure we are precisely following all laws and regulations and providing safe products to our consumers. PCPC and its member companies have a long history of going above and beyond what is required by law and a long history of working with various stakeholders at all levels of government on public policy.

First, I'd like to update you on an important recent development.

President Biden recently signed the Modernization of Cosmetic Regulation Act (MoCRA) of 2022.

The Modernization of Cosmetics Regulation Act (MoCRA) of 2022 was included in the Consolidated Appropriations Act of 2023 that was signed into law by President Biden on Dec. 29, 2022.

This long-awaited, historic legislation gives the FDA additional tools to ensure the safety of cosmetics, protects consumers and reinforces consumer confidence in the products they trust and enjoy every day. MoCRA represents significant reform of FDA's cosmetics authorities, which was signed into law by President Franklin D. Roosevelt in the 1938 Food, Drug & Cosmetic Act. MoCRA also brings the FDA's oversight of the beauty and personal care industry more in line with other categories the Agency regulates and contributes to global regulatory alignment.

MoCRA represents a true bipartisan, comprehensive, and uniform national framework for cosmetics regulation that advances science, safety, innovation, and consumer confidence.

The key provisions in MoCRA include:

- Establishing mandatory registration for all foreign and domestic cosmetic manufacturing facilities selling products in the U.S. and mandatory cosmetic ingredient listing for all cosmetic products sold in the United States.
- Requiring mandatory reporting to FDA of any serious adverse events.

- Directing FDA to issue regulations for cosmetics good manufacturing practices consistent with current standards; and
- Providing FDA with the authority to require mandatory recalls; and
- Requiring by statute that cosmetics manufacturers maintain records substantiating the safety of products, utilizing widely accepted scientific principles.

We ask that you pause further state action as implementation begins on this historic law.

SB546 does not harmonize with other recently enacted state laws.

Cosmetics and personal care products companies remain committed to advancing innovative product technologies that address a wide variety of consumer needs. If the Legislature moves forward with SB546 PCPC respectfully requests amendments to harmonize with other recently enacted state laws. For example, California AB 2771 was signed by Governor Newsom in September 2022 and phases out PFAS in cosmetics. CA AB 2771 builds upon CA AB 2762, signed into law by Governor Newsom in 2021, which bans certain cosmetic and personal care ingredients, harmonizes with ingredient restrictions in the European Union and was supported by a wide group of stakeholders, including PCPC. Again, PCPC is seeking amendments to provide regulatory certainty and international harmonization.

Specific concerns with SB546 as currently drafted.

PCPC opposes the inclusion of Formaldehyde releasing agents (FRA's). FRA's are an important preservative that is not equivalent to formaldehyde. FR Preservatives are not formaldehyde and do not present the concerns associated with breathing formaldehyde. FR Preservatives safely and effectively protect consumer personal care products against microbial contamination - contamination which can harm consumers by causing infection.

- PCPC requests the legislation include definition of "ingredient" consistent with California and Federal law.

PCPC requests language around technically unavoidable traces consistent with California law. Failure to include this could result in manufacturers being held liable for trace contaminants found ubiquitously in the environment such as soil and water.

- PCPC opposes the inclusion of ortho-phthalates.
- PCPC opposes the creation of a new regulatory framework that manufacturers would have to comply with.

For all of the reasons I outlined today, PCPC respectfully asks that you oppose SB546. We thank the work of proponents and their willingness to discuss concerns. However, at this time we remain opposed to the language. We welcome the opportunity to dialogue with you on the legislation and thank you for your consideration and the opportunity to comment.

Preservatives, including formaldehyde releasing agents, are critical for safe products.

Formaldehyde releasing agents (FRAs) are used to preserve and protect the safety and integrity of products. FRAs are not banned elsewhere, labeling is required for incidents of allergic reaction within the EU – where a specified level is exceeded. FRAs are widely considered safe and effective at protecting and preserving products from mold, yeast and other biological contaminants. Preservatives are ingredients that protect products against the growth of bacteria, fungi, and yeast. If products are not preserved, they could become moldy, discolored, or develop an unpleasant smell. Microbial growth in products used around the eyes and skin can cause serious health problems like infection or irritation.

Formaldehyde is naturally created in foods, in the environment and even in our bodies. FRAs are not the equivalent of formaldehyde. Personal care companies do not use formaldehyde; however, they do use formaldehyde releasers (meant to release minimal amounts of formaldehyde, through chemical reactions) to preserve product.

While there are alternative preservatives, Oregon should not ban FRAs- there is no scientific justification for a ban and this will create consumer confusion.

More information on preservatives and their importance in products can be found below.

THE IMPORTANCE OF PRESERVATIVES

What are preservatives?

Preservatives are ingredients that protect products against the growth of bacteria, fungi, and yeast. Preservatives are necessary to ensure safety in nearly every product category.

Many preservatives used in cosmetics are nature-identical to those found in fruits and vegetables.

Why are preservatives needed?

Without preservatives, products could spoil and possibly harm you.

Bacterial Growth in Cosmetics DAY 11

With Preservatives: [Petri dish with clear liquid]

Without Preservatives: [Petri dish with cloudy liquid and many small black dots representing bacteria]

Preservatives have been safely used in products for nearly 100 years!

Are preservatives safe?

The safety of preservatives has been thoroughly reviewed by scientists and permitted for use by government agencies across the globe, including:

- Canada
- United States
- European Union
- Japan
- Australia

69% Most people believe preservatives are safe and should be used in products.

87% Even more people agree that preventing the growth of bacteria is a strong argument for their use.

COSMETICS INFO

I appreciate the opportunity to testify and provide further comment. PCPC stands ready to be a resource on these important issues.

Sincerely,

Kelsey Johnson

Vice President, State Government Affairs
Personal Care Products Council