



September 11, 2023

Dr. Michal Freedhoff
Assistant Administrator
U.S. Environmental Protection Agency
Office of Chemical Safety and Pollution Prevention
Washington, D.C

Re: EPA-HQ-OPPT-2023-0311-0001

Dear Dr. Freedhoff,

Thank you for the opportunity to comment on the expansion of EPA's Safer Choice program. **Toxic-Free Future strongly supports efforts to expand the successful Safer Choice and Design for the Environment (DfE) programs to other categories of products, especially beauty, personal care, and formulated building products.** This expansion is urgently needed due to the growing health and environmental concerns of harmful chemicals in these product categories and the failure of current federal regulatory approaches to keep dangerous chemicals like PFAS out of common household products.

Federal regulation should prohibit the use of chemicals of high concern in consumer products, ensuring they are safe. Instead, the current risk-based, single-chemical framework relies heavily on controlling exposure. As we see repeatedly, exposure controls are often insufficient to safeguard public health, resulting in costly damages to human health and the environment, many of which, such as learning disabilities, reproductive harm, and cancer, can never be recovered. Lacking strong regulation, the voluntary Safer Choice/DfE program is an important prevention-based tool that, in direct contrast to the current regulatory framework, incentivizes companies to innovate and produce safer products.

Safer Choice and DfE have contributed to the reformulation of thousands of products by helping businesses identify "safer" products and product ingredients. While Safer Choice and DfE are not a substitute for efforts to ban or restrict chemicals of concern, Safer Choice, DfE, and the CleanGredients database have provided a valuable road map for manufacturers and retailers seeking to replace toxic chemicals with safer alternatives to meet the growing market for safer products.

Among other product categories, extending Safer Choice to 1) beauty and personal care products and 2) formulated building materials would provide considerable benefits to both human and environmental health.

Beauty and personal care products

Thousands of cosmetics and personal care products are used by people every day, and the chemicals used to make them are largely unregulated.

Chemicals linked to cancer and developmental and reproductive harm are put into cosmetic products and personal care products. Besides potentially exposing the person using the product to harmful chemicals, products with these toxic ingredients can also cause larger-scale pollution problems during manufacture and disposal. Hazardous chemicals can be released into water, exposing fish and other organisms, when beauty and personal care products are flushed down the drain. Many ingredients in cosmetics and personal care products are associated with cancer, developmental and reproductive harm. This is concerning because cosmetics are widely used, especially by teenagers and women of childbearing age.

Cosmetics don't just stay on our skin. Our skin not only absorbs some of the harmful chemicals that are applied to it, but we can also inhale the chemicals or ingest them from products like lipstick. Chemicals used in cosmetics are even being found in breast milk. Toxic-Free Future's 2021 [peer-reviewed study](#) found PFAS in 100% of breast milk samples tested. The study also found that globally, detections of PFAS currently being used in products like cosmetics and textiles have been doubling every four years.

Certain beauty and personal care products with toxic ingredients are used in greater quantities by people of color, resulting in disproportionate exposures to vulnerable communities, making this a major issue of environmental injustice. Products like skin lighteners, hair relaxers, and acrylic nails are often marketed to people of color or applied to customers by people of color and contain some of the most worrisome ingredients in cosmetics, such as formaldehyde. Recent studies have found that women who regularly use hair straighteners have an increased risk of developing uterine cancer and breast cancer, which is concerning because hair straightening products are often marketed to black women.

Expanding Safer Choice to beauty and personal care products can help meet rising consumer demand for safer products free of harmful chemicals such as PFAS. Surveys of consumers consistently show that they actively seek out safer beauty and personal care products, with the level of concern increasing with younger generations, highest for Generation Z.^{1, 2, 3}

In the absence of strong federal action, states such as California and Washington, as well as major beauty retailers and manufacturers, have responded to consumer concern. In May, Washington Gov. Jay Inslee signed the Toxic-Free Cosmetics Act into law, banning some of the most concerning chemicals put into cosmetic and personal care products, including PFAS, phthalates, formaldehyde, and

¹ Ulta, Corporate Responsibility: Product, <https://www.ulta.com/company/corporate-responsibility/product>, accessed August 28, 2023.

² Statista, "Do you specifically plan to buy beauty products in the future that are "clean" ?" <https://www.statista.com/statistics/1350178/importance-of-clean-beauty-to-us-consumers-by-generation/>, accessed August 28, 2023.

³ Neisen IQ, "The clean beauty trend is more than skin deep," July 29, 2021, <https://nielseniq.com/global/en/insights/education/2021/the-clean-beauty-trend-is-more-than-skin-deep/>, accessed August 28, 2023.

formaldehyde-releasing agents.⁴ Eight additional states have also passed laws banning specific hazardous chemicals in beauty and personal care products.⁵ More than 20 other bills have been introduced in about a dozen states, and this number is expected to grow.⁶

Multiple retailers, including Macy's,⁷ Sephora,⁸ Target,⁹ Walmart,¹⁰ and Ulta¹¹ have sought to meet this consumer demand by screening beauty and personal care products for set lists of chemicals of high concern and highlighting these products as "clean beauty" lines for their customers.

Expanding Safer Choice can help retailers, brands, and states implement their programs to promote and sell safer beauty products free of toxic chemicals. It can also help by establishing a consistent understanding of chemical hazard and by providing third-party verification. Most importantly, the "made without" approach provides no protection against regrettable substitutes. Safer Choice's SCIL list could help retailers, brands, and states ensure that substitutes for chemicals of concern in beauty and personal care products are verifiably safer.

As you know, the Food and Drug Administration (FDA) works to ensure personal care products are produced in a sanitary environment and monitors the marketplace for contaminated products. While the FDA does have the power to review substantiation records for ingredients of concern, the agency does not make determinations on which chemicals may be used. In fact, FDA does not even legally restrict most hazardous chemicals. While FDA has issued a series of "Consumer Updates" advising that consumers read labels of personal care products and avoid or consider avoiding those with chemicals like lead, mercury, or formaldehyde,^{12, 13, 14} FDA's action falls dramatically short of real health protections. Clearly, this is a significant gap in protections that Safer Choice can help address.

In light of FDA's lack of regulation of hazardous chemicals in beauty and personal care products, adding beauty and personal care products into the Safer Choice program, including the creation of a Safer Chemicals Ingredients List (SCIL), would provide important national guidance for manufacturers,

⁴ Toxic-Free Future, Washington's Toxic-Free Cosmetics Act 2023, <https://toxicfreefuture.org/washington-state/campaign-2023-washington-state-cosmetics-bill/>, accessed August 28, 2023.

⁵ *ibid* (see linked chart).

⁶ Safer States, "Chemicals used in Cleaning, Cosmetics and Construction," <https://www.saferstates.org/toxic-chemicals/cleaning-cosmetics-and-construction/>, accessed September 11, 2023.

⁷ Macy's: Conscious beauty for good, https://www.macys.com/p/conscious-beauty/?cm_sp=us_hdr_-beauty_-conscious-beauty_COL4&cm_kws=conscious%20beauty, accessed August 28, 2023.

⁸ Clean at Sephora, <https://www.sephora.com/beauty/clean-beauty-products>, accessed August 28, 2023.

⁹ Target Clean, <https://www.target.com/c/target-clean/-/N-p4n12>, accessed August 28, 2023.

¹⁰ Walmart Clean Beauty, <https://www.walmart.com/cp/clean-beauty/8628304>, accessed August 28, 2023.

¹¹ Ulta Clean Ingredients, <https://www.ulta.com/discover/conscious-beauty/clean-ingredients>, accessed August 28, 2023.

¹² U.S. Food and Drug Administration, "Use Eye Cosmetics Safely," <https://www.fda.gov/consumers/consumer-updates/use-eye-cosmetics-safely>, accessed September 11, 2023.

¹³ U.S. Food and Drug Administration, "Mercury Poisoning Linked to Skin Products," <https://www.fda.gov/consumers/consumer-updates/mercury-poisoning-linked-skin-products>, accessed September 11, 2023.

¹⁴ U.S. Food and Drug Administration, "Formaldehyde in Hair Smoothing Products: What You Should Know," <https://www.fda.gov/consumers/consumer-updates/formaldehyde-hair-smoothing-products-what-you-should-know>, accessed September 11, 2023.

retailers, and consumers as they seek safer products. It is clearly in the EPA's realm and expertise to play this function. Furthermore, for decades, the FDA has relied on the EPA expertise to set tolerances for pesticides in food, so adding beauty and personal care products to Safer Choice, including the development of a SCIL, is consistent with past practice of collaboration between FDA and EPA.

Formulated building products

Highly hazardous chemicals are also commonly used in formulated building products, with examples including hormone-disrupting phthalates and PFAS in sealants and paints. Hazardous chemicals are not benignly contained in those products. At every stage of their life cycles, these chemicals escape the products, impacting both human health and the environment, from manufacture,¹⁵ to installation,¹⁶ to occupancy, to product end-of-life.^{17, 18} Research has demonstrated that when toxic chemicals are used in building materials, those chemicals often turn up in our indoor air and dust, exposing building occupants. For example, studies have documented that indoor air and household dust are notable sources of exposure to phthalates.

Toxic-Free Future partnered with Healthy Building Network and the Ecology Center of Michigan in 2021 and 2022 to test sealants for phthalates. In this investigation, [we purchased and tested 33 sealant products](#), including polyurethane, silicone, and acrylic latex sealants, commonly used in building or renovation and potentially containing phthalates, which disrupt hormones and are linked to reproductive harm. The testing found that six of the 33 tested sealants contained high levels of phthalates—up to 12% by weight—containing both diisononyl phthalate (DINP) and diisodecyl phthalate (DIDP). While six sealants contained concerning levels of phthalates, none were detected in the remaining 27 products, suggesting that alternatives are available. Earlier this year, in May, 2023, Healthy Building Network published the results of its tests of 94 commercially available paint products for the presence of PFAS. Approximately 50% of paints tested positive for fluorine, a marker of PFAS.¹⁹ Unfortunately, no certification program currently provides sufficient guidance for users to choose safer sealants or paints.

Expanding Safer Choice to the formulated building products sector would impact an extremely large volume of products annually. The construction industry is one of the largest in the U.S., valued at \$1.8 trillion in 2022.²⁰ In 2022, 1,360 million gallons of paint and coatings alone were produced in the U.S., an

¹⁵ North Carolina Department of Health and Human Services, Division of Public Health, "Gen X in the Lower Cape Fear River Basin: Where is Gen X found in the environment?" https://epi.dph.ncdhhs.gov/oe/a_z/genx.html, accessed September 11, 2023.

¹⁶ Mi T, Han C, Wang Y, et al. 2013. Acute toxic leukoencephalopathy in migrant workers exposed to organic solvents in construction materials. *Occupational and Environmental Medicine* 70:435-436.

¹⁷ ABC News, "Environmental impacts of Maui wildfires will last for years to come, experts say," September 8, 2023, <https://abcnews.go.com/US/environmental-impacts-maui-wildfires-years-experts/story?id=102458299>, accessed September 11, 2023.

¹⁸ NPR, "Another struggle after the Maui fires: keeping toxic runoff out of the ocean," August 29, 2023, <https://www.npr.org/2023/08/29/1196424210/maui-fires-lahaina-runoff-ocean-coral-reefs>, accessed September 11, 2023.

¹⁹ Healthy Building Network, "PFAS in Paints," 2023, <https://healthybuilding.net/reports/25-pfas-in-paints>, accessed September 11, 2023.

²⁰ Statista, "Construction industry in the U.S. - statistics & facts," <https://www.statista.com/topics/974/construction/#topicOverview>, accessed September 11, 2023.

amount that has steadily increased since 2015.²¹ The U.S. adhesives and sealants industry was estimated at \$14 billion in 2020, with projected steady growth through 2028.²²

As with beauty and personal care products, demand for safer formulated building products is a driving factor in the development of new products.^{23, 24} Also as with beauty and personal care products, retailers are focused on moving away from chemicals of high concern. Both The Home Depot²⁵ and Lowe's²⁶ have corporate chemicals policies restricting PFAS and other chemicals of high concern, including in formulated building products. For example, both retailers banned the sale of paint removal products containing methylene chloride and NMP in 2018.²⁷ Both companies also currently sell Safer Choice products; The Home Depot was a Safer Choice Partner of the Year in 2021.²⁸

Current third-party standards that evaluate all ingredients for hazard have not focused on formulated building products. The absence of certified products, combined with a lack of ingredient transparency, make it difficult or impossible for those purchasing these products to make informed choices. For example, the Enterprise Green Communities standard, which governs sustainability for affordable housing projects in 31 states, has opportunities for developers to obtain optional points by choosing building materials free of chemicals like phthalates. Project teams find it challenging to choose safer materials and achieve these points, however, because of lack of disclosure and third-party standards guiding their selections.

We urge EPA to explore expanding Safer Choice to formulated building products such as sealants and paints.

Safer Choice vs. Design for the Environment

As EPA considers expanding the program to other product categories, we strongly urge EPA to continue to utilize the Safer Choice branding (except for products like disinfectants). Since DfE has largely been

²¹ Statista, "Production volume of the paint and coatings industry in the United States from 2015 to 2022, with a forecast until 2023," <https://www.statista.com/statistics/1261305/paint-and-coatings-production-volume-us/>, accessed September 11, 2023.

²² Fortune Business Insights, "North America Adhesives and Sealants Market Size," <https://www.fortunebusinessinsights.com/north-america-adhesives-and-sealants-market-105576>, accessed September 11, 2023.

²³ *ibid.*

²⁴ Fortune Business Insights, "Paints and Coatings Market Size," <https://www.fortunebusinessinsights.com/industry-reports/paints-and-coatings-market-101947>, accessed September 11, 2023.

²⁵ Home Depot, "Chemical Strategy," https://corporate.homedepot.com/sites/default/files/image_gallery/_D7ARCHIVES-PDFs/Chemical%20Strategy%2010_2017.pdf, accessed September 11, 2023.

²⁶ Lowe's, "Safer Chemicals Policy," <https://corporate.lowes.com/our-responsibilities/corporate-responsibility-reports-policies/lowes-safer-chemicals-policy>, accessed September 11, 2023.

²⁷ Toxic-Free Future, "The Home Depot to be third major U.S. retailer to ban deadly paint strippers," June 19, 2018, <https://toxicfreefuture.org/press-room/the-home-depot-to-be-third-major-u-s-retailer-to-ban-deadly-paint-strippers/>, accessed September 11, 2023.

²⁸ US EPA, "The Home Depot Recognized as one of EPA's 2021 Safer Choice Partners of the Year," September 22, 2021, <https://www.epa.gov/newsreleases/home-depot-recognized-one-epas-2021-safer-choice-partners-year>, accessed September 11, 2023.

rebranded to Safer Choice, we have seen how the updated branding has positively resonated with consumers and retailers. Safer Choice more clearly communicates the benefits of these certified products, versus Design for the Environment.

Conclusion

Expanding the Safer Choice/DfE program is critically needed in the absence of strong regulations that prevent the use of the most hazardous chemicals. Consumers are demanding safer products and environmental health concerns must be a priority, particularly with respect to addressing disproportionate exposures to people of color.

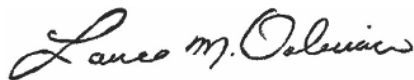
Safer Choice and third-party certifiers that rely on a safer ingredient list (SCIL) will help to assure more rigor in product certifications, as compared to company product claims such as “eco-friendly”, “clean beauty”, “all-natural”, and “sustainable.” Not only would this make it easier for consumers and retailers to identify and purchase safer products, but it would also enable brands to market their products to consumers who are increasingly concerned about the safety of ingredients in beauty and personal care products, and wary of greenwashing.

We also urge the agency to seek resources to help companies, particularly small businesses, offset the costs of getting a Safer Choice designation or to reformulate products. The state of Washington recently enacted [legislation](#) directing the state Department of Ecology to create an initiative to provide support to small businesses for making safer personal care products and cosmetics (*e.g.*, Safer Choice) in anticipation of possible expansion of the program. This is the kind of investment in clean business that makes sense and should be supplemented by federal resources.

While many other consumer product categories should also be considered as EPA expands Safer Choice and Design for the Environment programs, such as chemicals used in other household and textile products, we believe expanding Safer Choice to beauty and personal care and formulated building products would be a “win-win” for public health and the environment, consumers, and the business community.

Thank you for your consideration of our recommendations.

Sincerely,



Laurie Valeriano
Executive Director



Cheri Peele
Senior Project Manager