

## THE NATURAL HAIR MOVEMENT: HEALTH, POLITICS AND REGULATIONS

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### ABSTRACT

*The United States' failure to adequately regulate cosmetics threatens the health of Black people seeking to wear their hair naturally. Without intentionally centering racial equity in the quest for clean cosmetics, Black people who use a range of hair care products will continue to be exposed to ingredients that could be harmful to their health. Legal scholarship has focused on how the barebones regulatory framework present in the U.S. converges with societal pressure to obtain European standards, particularly as it relates to pressure on Black women to chemically straighten their hair.<sup>1</sup> However, Black women electing to not buy into the Eurocentric standards of beauty are not free from exposure to potential toxins. The Natural Hair movement represents an embrace of Afro-centrism and a quest to own one's hair health, yet the health concerns around cosmetics remain. Political and social movements, such as the Make America Healthy Again and Clean Beauty movements, are increasing pursuing toxin-free products;<sup>2</sup> however, these movements have largely not pursued racial equity. This Article seeks to apply a racial and gender analysis to the quest for clean beauty or toxin-free hair care products and examines the Natural Hair movement to illustrate. Finally, this Article concludes with research-driven solutions.*

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1. See e.g., Paulette M. Caldwell, *A Hair Piece: Perspectives on the Intersection of Race and Gender*, 1991 DUKE L.J. 365, 383–84 (1991).

2. See, e.g., Grace C. Cheng, *Clean Beauty's Toxic Deception: The Impact of Changing Regulatory Schemes on the Cosmetics Industry*, 24 WAKE FOREST J. BUS. & INTELL. PROP. L. 218, 221–22 (2024). *Make America Health Again (MAHA) Initiative*, U.S. DEP'T OF HEALTH & HUMAN SERVS. <https://www.hhs.gov/maha/index.html> [<https://perma.cc/7KB8-QPHR>].

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## INTRODUCTION

Black women are increasingly choosing to wear their hair natural or without using chemical straightening products.<sup>3</sup> While the women choosing to wear natural hairstyles do so for a variety of reasons, this sizable shift among Black women has come during a time where there is an increased awareness of the health harms associated with chemical relaxers.<sup>4</sup> Even still, Black people seeking to wear their hair naturally may be exposed to hair care products which contain known or suspected toxic ingredients.<sup>5</sup> Similarly, products marketed as “natural” or “organic” might also still include contaminants.<sup>6</sup> While the risks associated with chemical relaxers have received worthy attention in the media, legal scholarship and public discourse, there is a risk that this focus has overshadowed the potential harms in other Black hair care products.<sup>7</sup> Scholarship on chemical relaxers have explored the Eurocentric beauty standards associated with hair straightening, but Black women embracing traditional Black and African aesthetics are also at risk of toxin

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3. Kamina Wilkerson, *The Natural Hair Movement: An Understated Revolution*, 2017 CONTINUUM: UNDERGRADUATE RSCH. J. 56, 57 (2017). See Nikita Wong, Kirk Williams, Starling Tolliver & Geoffrey Potts, *Historical Perspectives on Hair Care and Common Styling Practices in Black Women*, 115 CUTIS 95, 96 (2025); Tiffany Martinbrough, *Black Women Make Waves in Hair Care*, N.Y. TIMES (Dec. 13, 2021), <https://www.nytimes.com/2021/12/09/style/black-women-hair-care.html> [<https://perma.cc/4T5C-WN35>].

4. Alexis Wray, *Synthetic Hair Contains Toxic Chemicals. Black Women Are Looking to ‘Ditch the Itch’*, 19THNEWS (June 9, 2025, at 12:33 ET), <https://19thnews.org/2025/06/synthetic-hair-toxic-chemicals-black-women/> [<https://perma.cc/ND9R-PQZD>]; see, e.g., Lauren A. Wise, Julie R. Palmer, David Reich, Yvette C. Cozier & Lynn Rosenberg, *Hair Relaxer Use and the Risk of Uterine Leiomyomata in African-American Women*, 175 AM. J. EPIDEMIOLOGY 432, 432 (2012) [hereinafter Wise et al., *Uterine Leiomyomata*] (finding a positive correlation between hair relaxer usage and an increased risk of uterine fibroids, or benign uterine tumors).

5. Kaley Beins, Alexa Friedman, Hong Lin & Kristian Edwards, *Higher Hazards Persist in Personal Care Products Marketed to Black Women, Report Reveals*, ENV’T WORKING GRP. (Feb. 11, 2025), <https://www.ewg.org/research/higher-hazards-persist-personal-care-products-marketed-black-women-report-reveals> [<https://perma.cc/3DP2-YHGR>] (finding that out of 4,011 personal care products marketed to Black women, only 21% were rated as “low hazard”).

6. Leigh-Ann Jackson, *Dangerous Chemicals Were Detected in 100% of the Braiding Hair We Tested*, CONSUMER REPS. (Feb. 27, 2025), <https://www.consumerreports.org/health/wigs-hair-extensions/dangerous-chemicals-detected-in-braiding-hair-cr-tested-a4850978424/> [<https://perma.cc/5MSU-DCEL>] [hereinafter Jackson, *Dangerous Chemicals*].

7. Beins et al., *supra* note 5 (arguing that while policy changes have improved product safety, “disparities still exist between products marketed to Black women and products without demographic marketing”).

exposure.<sup>8</sup> In short, chemical relaxers are not the only hair care products exposing Black people, especially women, to known or suspected toxins.<sup>9</sup> As has been widely discussed in the legal literature, the United States has not robustly regulated cosmetics, including hair care products.<sup>10</sup> Moreover, legal scholarship has documented the increasing pursuit among Americans for better health and wellness, including freedom from chemical toxins in beauty products. This scholarship has at times, applied a gender analysis;<sup>11</sup> however, it has largely not applied a racial analysis.<sup>12</sup> This Article seeks to apply a racial and gender analysis onto the clean beauty discussions and consider how the current regulatory approach to cosmetics impacts Black women seeking hair care products free from toxins. Without intentionally centering racial equity in the quest for clean cosmetics, Black women who use a range of hair care products will continue to be exposed to ingredients that could be harmful to their health.<sup>13</sup>

In general, hair care products marketed to the Black community contain more hazardous chemicals compared to other products. For example, a study from Consumer Reports published in 2025 concluded that the most widely used brands of synthetic braiding hair all contained known hazardous chemicals “including carcinogens, lead, and volatile organic chemicals.”<sup>14</sup> In 2026, Consumer Reports expanded this study and concluded that human braiding hair also contained chemical

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8. See Wong et al., *supra* note 3, at 96.

9. See *id.*

10. See Marie Boyd, *Gender, Race & the Inadequate Regulation of Cosmetics*, 30 YALE J.L. & FEMINISM 275, 290, 296–97 (2018).

11. See, e.g., Cheng, *supra* note 2, at 222; Roseann B. Termini & Leah Tressler, *American Beauty: An Analytical View of the Past and Current Effectiveness of Cosmetic Safety and Regulations and Future Direction*, 63 FOOD & DRUG L.J. 257, 265 (2008).

12. See generally *id.* The current scholarship largely focuses on the regulatory and consumer protection failures within the cosmetics industry, specifically highlighting how current laws allow brands to exploit the current trends towards “clean” products.

13. See Beins et al., *supra* note 5.

14. Jackson, *Dangerous Chemicals*, *supra* note 6. Karen Feldscher, *Synthetic Braiding Hair Used by Black Women Contain Dangerous Chemicals*, HARV. T.H. CHAN SCH. OF PUB. HEALTH (Mar. 5, 2025), <https://hsph.harvard.edu/news/synthetic-braiding-hair-used-by-black-women-contain-dangerous-chemicals/> [https://perma.cc/N92J-643C].

toxins, including lead and volatile organic chemicals.<sup>15</sup> Even beyond braiding hair, other products could pose a risk to consumer health and exacerbate existing health disparities, as found in a search of the most robust database on consumer products. The Environmental Working Group (EWG) is a non-profit organization with a stated mission “to empower you with breakthrough research to make informed choices and live a healthy life in a healthy environment,”<sup>16</sup> and the organization operates several databases that allow the public to search products for chemical toxins.<sup>17</sup> This Article summarizes the search results from EWG Skin Deep Database for hair care products frequently used to style and maintain natural hairstyles, such as locking gel, curling creams, hair oil and leave-in conditioners.<sup>18</sup> This search yielded products known and suspected to cause cancer, reproductive toxicity, immunotoxicity, developmental delays, irritations, and allergies.<sup>19</sup> Further, the hair care products did not contain labels allowing the average consumer to distinguish between hazardous and nonhazardous products.<sup>20</sup> These products are marketed to Black women for the styling and maintenance of natural hair styles, and moreover, these products are readily available in beauty and general stores.

There are hair health benefits associated with certain hair care products.<sup>21</sup> For this reason, Black women, no matter how they wear their hair, regularly use hair care products more than any other population.<sup>22</sup> In fact, a Black woman electing to wear

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15. Jackson, *Dangerous Chemicals*, *supra* note 6.

16. *Our Mission*, ENV'T WORKING GRP., <https://www.ewg.org/who-we-are/our-mission> [<https://perma.cc/3SH4-9K5F>] (last visited May 7, 2026).

17. *Consumer Guides*, ENV'T WORKING GRP., <https://www.ewg.org/consumer-guides> [<https://perma.cc/DB23-DQ5N>] (last visited Apr. 3, 2026).

18. *See Skin Deep Database*, ENV'T WORKING GRP., <https://www.ewg.org/skindeep/> [<https://perma.cc/39XY-TF8F>] (last visited Apr. 3, 2026).

19. *See* discussion *infra* Part III.

20. *See id.*

21. *See* Wong et al., *supra* note 3, at 98.

22. JANET NUDELMAN, LAURA GILLAN, BRIANNA SIRACUSE & ERIKA WILHELM, THE NON TOXIC BLACK BEAUTY PROJECT REPORT 7 (2023), [https://www.safecosmetics.org/wp-content/uploads/2024/10/Black-Beauty-Project-Report\\_06-29-2023.pdf](https://www.safecosmetics.org/wp-content/uploads/2024/10/Black-Beauty-Project-Report_06-29-2023.pdf) [<https://perma.cc/4JKJ-U8WP>] (“Black women . . . purchase and use more beauty products per capita than any other demo

her hair in a natural hairstyle is more, not less, likely to use hair care products than a Black woman with chemically straightened hair.<sup>23</sup> Therefore, it is not simply an aesthetic or cosmetic decision permitting that these women can just simply forgo hair care products. Additionally, Black women are already exposed to more toxins in the environment and disproportionately burdened by chronic conditions, which compounds the health harms resulting from toxin exposure.<sup>24</sup>

The decision to “go natural,” as it is colloquially known, is a personal decision, even if it can, as discussed within this article, have social, political, and economic consequences.<sup>25</sup> Every person makes this decision for different reasons. Women have adopted natural hairstyles after increased awareness of hazards associated with chemical relaxers.<sup>26</sup> Other women will choose these hairstyles to give their hair a temporary reprieve from chemical relaxers or straightening.<sup>27</sup> Perhaps, most significantly, a move toward natural hair represents, for some, a shedding of cultural norms demanding that Black women conform to stereotypical Eurocentric ideas around beauty, including hair straightening.<sup>28</sup> Still others simply find the hairstyle a complementary feature of their aesthetic. The increased adoption of natural hair care styles has also come alongside more public

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graphic—spending more than \$7.5 billion on beauty products every year and nine times more on hair products than the average consumer.”).

23. See Nafi Diagne, *What’s Really in Our Hair Products? How Black Women Are Being Exposed to Hidden Health Risks*, HARV. T.H. CHAN SCH. OF PUB. HEALTH (Nov. 10, 2025), <https://hsph.harvard.edu/mahalingaiah-lab/news/whats-really-in-our-hair-products-how-black-women-are-being-exposed-to-hidden-health-risks/> [https://perma.cc/P2JC-NUPJ].

24. See *Environmental Justice and Reproductive Health*, RESILIENT SISTERHOOD PROJ., <https://rsphealth.org/environmental-justice/> [https://perma.cc/F83F-4R78] (last visited Apr. 14, 2026); Marissa Chan, Shivani Parikh, Derek Shyr, Bhavna Shamasunder, Gary Adamkiewicz & Tamarra James-Todd, *Evaluating Neighborhood-Level Differences in Hair Product Safety by Environmental Working Group Ratings Among Retailers in Boston, Massachusetts*, 131 ENV’T HEALTH PERSPS. 097002-1 (2023).

25. See Nina Ellis-Hervey, Ashley Doss, DeShae Davis, Robert Nicks & Perla Araiza, *African American Personal Presentation: Psychology of Hair and Self-Perception*, 47 J. BLACK STUD. 869, 873, 876 (2018) (describing how Black women have been forced to adopt European beauty standards, including altering their hair, as a means of job survival).

26. Wray, *supra* note 4.

27. See Ellis-Hervey et al., *supra* note 25, at 874–76.

28. See *id.* at 875–76.

recognition of hair discrimination.<sup>29</sup> While some women might not even see themselves as participating in a movement, there is no doubt that the rising number of Black women shifting from straightened to natural hair, either permanently or temporarily, represents more than a hair trend.<sup>30</sup> This shift in hair-styles has been described as a movement — the Natural hair movement.

Of course, politics and social movements influence the law, and laws governing cosmetics are no different.<sup>31</sup> In this current moment, the most publicized social and political endeavors to eliminate toxins from consumer products are the Make America Healthy Again (MAHA) movement, the political effort led by the Secretary of the Department of Health and Human Services (HHS), and the clean beauty movement.<sup>32</sup> Both movements center around reducing exposure to toxins.<sup>33</sup> With Robert F. Kennedy currently installed as the Secretary of Health, the second Trump administration has prioritized raising awareness about the connections between chemical toxins and chronic illnesses.<sup>34</sup> While Secretary Kennedy does not have a robust public record on chemicals in cosmetics, his stated aim to push for toxin-free

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29. Meah Johnson, *I Am Not My Hair: Natural Hair Discrimination in Corporate America*, 11 J. RACE GENDER & POVERTY 109 (2019-2020).

30. See Wong et al., *supra* note 3, at 96.

31. See Amna A. Akbar, Jocelyn Simonson & Sameer Ashar, *What Movements Do to Law*, BOSTON REV. (Apr. 26, 2022), <https://www.bostonreview.net/articles/what-movements-do-to-law/> [<https://perma.cc/6N6U-4PA6>].

32. Cf. *Make America Health Again (MAHA) Initiative*, *supra* note 2; *The Clean Beauty Revolution: How Consumers Are Shifting Away from Toxins*, CLEAN MAPLE (Jan. 16, 2025), <https://cleanmaple.com/blogs/news/the-clean-beauty-revolution-how-consumers-are-shifting-away-from-toxins?srltid=Afm-BOooK4GojN70OEhd3Tpo9kj7W6yftHu83H2WX74leOrUKffcSLtoCs> [<https://perma.cc/NFV4-NFE5>]. See also Camilla Cecannecchia, *Make America Healthy Again: A Medico-Legal and Public Health Analysis of a Politicized Health Initiative*, 5 FRONTIERS HEALTH SERVS. 1, 1 (2025).

33. Cecannecchia, *supra* note 32, at 1.

34. See *Establishing the President's Make America Healthy Again Commission*, THE WHITE HOUSE (Feb. 13, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/establishing-the-presidents-make-america-healthy-again-commission/> [<https://perma.cc/JDS8-RQBF>]; see also THE MAHA REPORT: MAKE OUR CHILDREN HEALTHY AGAIN 42 (2025), <https://www.whitehouse.gov/wp-content/uploads/2025/05/MAHA-Report-The-White-House.pdf> [<https://perma.cc/ARC3-AY7P>] (discussing children's exposure to chemicals from infancy through various avenues, including but not limited to: breastmilk, household dust, and industrial toxic waste) [hereinafter MAKE AMERICA HEALTHY AGAIN REPORT].

consumer products should, in theory, align his regulatory and policy agenda with Black women seeking natural hair care products, as well as others pursuing clean beauty cosmetics.<sup>35</sup> The Natural Hair movement and the clean beauty movement also have similar synergies. The clean beauty movement has chief among its goals eliminating harmful ingredients in cosmetics.<sup>36</sup> While the clean beauty movement's pursuit of "clean" cosmetics and the MAHA movement's pursuit of a "toxin-free" lifestyle overlap with the Natural Hair movement, the Natural Hair movement's roots in equity and primary focus on Black women's needs and preferences are not fully considered in the legal and policy solutions pursued in either the clean beauty or MAHA movements.<sup>37</sup> Further, the Natural Hair movement, in its fullness, builds upon a social, political, and even spiritual history that current leading efforts to eliminate toxic chemical ingredients do not fully appreciate.

There is political momentum to improve the regulation of cosmetics, but the MAHA and Clean Beauty movements, including the extent that these movements adopt a racial and gender analysis, are influencing whether reforms benefit everyone. In 2022, President Joe Biden signed into law the Modernization of Cosmetics Regulation Act ("MoCRA"), which expanded the FDA's authority to regulate cosmetics.<sup>38</sup> This law answers decades-long calls to grant the Food and Drug Administration

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35. Tressie McMillan Cottom, *Who Cares if You're Healthy, as Long as You Look Good?*, N.Y. TIMES (Aug. 26, 2025), <https://www.nytimes.com/2025/08/26/opinion/maha-clean-beauty-health-wellness.html> [<https://perma.cc/SH2E-N9MF>] (discussing how the goals of the MAHA movement embraces the Natural Hair movement, but the MAHA movement's suspicion of existing scientific initiatives stalls the Natural Hair movement's progress).

36. Alecsandra Dragus, Note, *Detoxing from Clean Claims: Bridging the Gap Between "Clean" and "Dirty" Beauty*, 13 WM. & MARY BUS. L. REV. 895, 899 (2022).

37. See McMillan Cottom, *supra* note 35 (arguing that MAHA overlooks environmental harms in beauty products, ultimately harming Black women). See generally Ami R. Zota & Bhavna Shamasunder, *The Environmental Injustice of Beauty: Framing Chemical Exposures from Beauty Products as a Health Disparities Concern*, 217 AM. J. OF OBSTETRICS & GYNECOLOGY 418, 418 (2017) (arguing that beauty product safety is an environmental justice issue because market-based "clean" solutions often ignore the cumulative chemical burdens and Eurocentric beauty standards that disproportionately affect women of color).

38. Modernization of Cosmetics Regulation Act of 2022, H.R. 2617, 117th Cong. (2022) (enacted as part of the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459 (2022)).

increased authority to regulate cosmetics.<sup>39</sup> However, there is a threat that MoCRA will not achieve Congress's intent as enacted, and the implementation of the law will not lead to safer cosmetics.<sup>40</sup> There are several regulatory approaches the Trump Administration has adopted that will undermine any potential for the FDA's regulations to improve Black hair care products.<sup>41</sup> First, the Administration has made it a top priority to deregulate and dismantle the federal government, which could undermine the FDA's oversight capacity.<sup>42</sup> Second, the HHS, under Secretary Kennedy, has regulated at odds with science.<sup>43</sup> Finally, and most importantly, Secretary Kennedy and the Trump administration's systematic and intentional efforts to undermine health equity is at odds with improving Black women's health in any context.<sup>44</sup> It is a bad public health practice to not

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39. *Id.*; see also NORA WELLS, CONG. RSCH. SERV., R47826, FDA REGULATION OF COSMETICS AND PERSONAL CARE PRODUCTS UNDER THE MODERNIZATION OF COSMETICS REGULATION ACT OF 2022 (MoCRA) 6 (2023) ("FDA's authority over cosmetics prior to MoCRA was less comprehensive than its authority over other FDA-regulated products with regard to good manufacturing practices (GMP), premarket clearance or approval, testing, and mandatory risk labeling.").

40. For example, the FDA has already withdrawn its 2024 proposed rule under MoCRA to establish standardized testing methods for detecting and identifying asbestos in talc-containing cosmetics. See *Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products*; Withdrawal, 90 Fed. Reg. 54603 (Nov. 28, 2025) (to be codified at 21 C.F.R. pt. 730) (withdrawing 89 Fed. Reg. 105490, with intent to reexamine and reissue).

41. See Monica Amarelo & Melanie Benesh, *How the Trump Administration Could Decide the Fate of MoCRA*, ENV'T WORKING GRP. (Dec. 19, 2024), <https://www.ewg.org/news-insights/news/2024/12/how-trump-administration-could-decide-fate-MoCRA> [<https://perma.cc/6JMR-XRGL>].

42. See *infra* notes 407–19 and accompanying text; see also Exec. Order No. 14192 (Jan. 31, 2025) ("Unleashing Prosperity Through Deregulation") (establishing a regulatory cap that requires agencies to identify multiple existing regulations for rescission before issuing new ones). Christina Jewett, *F.D.A. Scientists Are Reinstated at Agency Food Safety Labs*, N.Y. TIMES (Apr. 25, 2025), <https://www.nytimes.com/2025/04/25/health/fda-food-safety-trump-layoffs.html> [<https://perma.cc/UKK6-FB5B>] (explaining how, within the first few months of Trump's second term, the administration cut about 20% of the FDA's workforce, eliminating over 3,500 jobs).

43. See McMillan Cottom, *supra* note 35; Steven Woolf & Jill Rosenthal, *RFK Jr. Is Systematically Undermining Vaccine Science and Endangering Health*, CAP (June 27, 2025), <https://www.americanprogress.org/article/rfk-jr-is-systematically-undermining-vaccine-science-and-endangering-health/> [<https://perma.cc/6UH2-3Q44>] (explaining how RFK Jr.'s leadership has resulted in "an increasingly hostile environment for scientific evidence and transparency").

44. Kierra B. Jones & Sara Estep, *How the Trump Administration's DOGE Cuts Are Harming Women*, CAP (June 9, 2025), <https://www.americanprogress.org/article/how-the-trump-administrations-doge-cuts-are-harming-women/> [<https://perma.cc/H96K-4DQL>] ("DOGE has cut at least \$3 billion in grants for research, education, and other programs that help women and

consider the unique and diverse needs of a population: America cannot be made healthy without considering health equity. Beyond this current moment, the FDA under the authority of Secretary Kennedy demonstrates the limits to relying upon the FDA alone to improve cosmetic safety.

There is a need for multilevel solutions, including a comprehensive Congressional response. The clean beauty movement has been vocal about this need.<sup>45</sup> The Safer Beauty Package, a four bill legislative package introduced in Congress to focus on improving transparency, investing in research, and banning select toxic chemicals, would represent a significant advancement governing cosmetics through more stringent regulations, increased oversight, and additional research investments.<sup>46</sup> Even still, Black women have a unique frequency and use of hair care products, and Black women's health concerns will not be addressed without intentionally centering racial equity.<sup>47</sup>

This Article adds to the robust literature documenting Black hair history and culture with a focus on a popular subset of the culture—the Natural Hair movement. The Natural Hair movement demonstrates that Black women cannot simply self-select to not have unnecessary toxin exposure, and even Black women in pursuit of clean beauty will continue to be harmed without intentionally centering racial equity in cosmetic regulations.<sup>48</sup> Through examining where the clean beauty, MAHA, and

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girls—especially women of color.”); NUDELMAN ET AL., *supra* note 22, at 22 (arguing that “an unregulated, profit-driven beauty industry” perpetuates “racial injustice[s]” against Black women).

45. James E. Rogers & Alexandra Grose, *Press Release: Lawmakers Introduce Landmark Safer Beauty Bill Package To Address Dangerous Gaps in Cosmetic Safety*, CONSUMER REPS. (July 17, 2025), [https://advocacy.consumerreports.org/press\\_release/lawmakers-introduce-landmark-safer-beauty-bill-package-to-address-dangerous-gaps-in-cosmetic-safety/](https://advocacy.consumerreports.org/press_release/lawmakers-introduce-landmark-safer-beauty-bill-package-to-address-dangerous-gaps-in-cosmetic-safety/) [https://perma.cc/S5KP-XT6U].

46. See Safer Beauty Bill Package, H.R. 3619, H.R. 3620, H.R. 3621, H.R. 3622, 118th Cong. (2023) (including the Toxic-Free Beauty Act, the Cosmetic Safety for Communities of Color and Professional Salon Workers Act, and the Cosmetic Fragrance of 2025, H.R. 4436, 119th Cong. (2025) (last referred to Committee on Energy), and Flavor Ingredient Right to Know Act, and the Cosmetic Supply Chain Transparency Act, H.R. 4434–35, 119th Cong. (2025)); discussion *infra* Section IV.B.

47. NUDELMAN ET AL., *supra* note 22, at 7.

48. See *infra* Part III.

Natural Hair movements align and diverge in interests, the Article aims to demonstrate how the relevant stakeholders have been and can continue to influence cosmetic regulations. This Article concludes with ten policy recommendations for lawmakers pursuing a regulatory scheme that promotes clean and toxin-free cosmetics, including natural hair care products.

### I. THE REGULATORY LANDSCAPE: INJUSTICES AND ANALYTICAL FRAMEWORKS

The Federal Food, Drugs and Cosmetics Act (FDCA), in conjunction with the Fair Packaging and Labeling Act (FPLA), grants the FDA the authority to regulate cosmetic products.<sup>49</sup> Most hair care products fit into the category of cosmetics.<sup>50</sup> Further, cosmetic products are regulated under the Fair Packaging and Labeling Act.<sup>51</sup> The FTC has regulatory authority over cosmetic advertising.<sup>52</sup> Notably, before MoCRA was enacted in 2022, there had not been a federal law updating the regulation of cosmetics since 1938.<sup>53</sup>

There has been a significant amount of scholarship on the inadequate regulatory framework governing cosmetics in the United States.<sup>54</sup> Particularly relevant to the Black Natural Hair

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49. Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 393(b); Fair Packaging and Labeling Act, 15 U.S.C. § 1454(a).

50. 21 U.S.C. § 321(i) (“The term ‘cosmetic’ means [] 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.”); 15 U.S.C. § 1459(a).

51. 15 U.S.C. § 1454(a).

52. *Id.* See also *Cosmetics Labeling Claims*, U.S. FOOD & DRUG ADMIN. (Nov. 21, 2022), <https://www.fda.gov/cosmetics/cosmetics-labeling/cosmetics-labeling-claims> [<https://perma.cc/6MZQ-HFX5>] (explaining that the FDA does not approve cosmetic labels before products are available for sale).

53. *Id.*

54. See, e.g., Termini & Tressler, *supra* note 11, at 265; Anh-Thi Le, *French-Tipped Formaldehyde: Why FDA’s Statutory Framework Enables Toxic Chemical Exposures in Manicure Products*, 75 AM. U. ADMIN. L. REV. 393, 403–05 (2023); see also Aaron Kaufman, Brianna Rauenzahn & Jamison Chung, *Does Cosmetics Regulation Need a Makeover?*, REGUL. REV. (May 1, 2021), <https://www.theregreview.org/2021/05/01/saturday-seminar-does-cosmetic-regulation-need-makeover/> [<https://perma.cc/Y4EQ-9LHX>] (highlighting several articles addressing the deficiencies in cosmetic regulation, as well as anticipated consequences and the benefits of improved policy).

movement, there has been scholarship outlining the need for an analytical framework that considers gender, race, and intersectionality.<sup>55</sup> Similarly, scholarship has outlined how the U.S. does not adequately regulate claims surrounding “clean” beauty products.<sup>56</sup> This Section combines these arguments to offer that there must be a racial and gender analysis applied to the regulation of cosmetics claiming to be natural and clean.

### A. *An Unjust Regulatory Framework*

The FDCA regulates food, drugs, and cosmetics, as the name suggests, but cosmetic manufacturers are the least regulated under the law.<sup>57</sup> The law defines cosmetics as “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 . . . .”<sup>58</sup> Hair care products are encompassed within this definition.<sup>59</sup> In fact, the sale of hair care products is the second largest category among cosmetic sales in the United States.<sup>60</sup>

The United States has not established a minimum standard for manufacturers to research or test cosmetics for safety.<sup>61</sup> The U.S. does not require cosmetic manufacturers to submit

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55. Colleen Campbell, *Intersectionality Matters in Food and Drug Law*, 95 U. COLO. L. REV. 2, 24 (2024) (suggesting that an intersectional analysis, considering race and gender, would serve as a remedy to the weaknesses of current cosmetic policy schemes).

56. See, e.g., Jasmine A McDonald, Adana A.M. Llanos, Taylor Morton & Ami R. Zota, *The Environmental Injustice of Beauty Products: Toward Clean and Equitable Beauty*, 112 AJPH 50, 51–52 (2022); Elizabeth Perryman, *The Dirty Truth of Clean Beauty: Words Matter for Cosmetics Manufacturers Seeking to Avoid False Advertising Litigation*, 26 TUL. J. TECH. & INTELL. PROP. 179, 179–81 (2024).

57. See Boyd, *supra* note 10, at 297.

58. 21 U.S.C. § 321(i).

59. See *id.*

60. WELLS, *supra* note 39, at 1.

61. Although MoCRA expanded the FDA’s authority to establish standards for good manufacturing practices (“GMP”) for facilities manufacturing cosmetics, fragrance allergen labels, and standardized testing methods for detecting asbestos in talc-containing cosmetic products, the FDA does not require testing to *market* a cosmetic product. See Modernization of Cosmetics Regulation Act of 2022, Pub. L. No. 117-328, §§ 3502, 3505, 136 Stat. 5847, 5859 (2022).

information to demonstrate cosmetic products safety.<sup>62</sup> Even more, the FDA does not have the authority to require, or to independently conduct, premarket review and approval for cosmetics, except with regard to color additives.<sup>63</sup> Even still, the FDA “strongly urges cosmetic manufacturers to conduct whatever toxicological or other tests are appropriate to substantiate” a product’s safety, but this is not a legal requirement.<sup>64</sup>

Prior to the passage of MoCRA in 2022, the FDA did not have the authority to recall and remove a product from the market if the product was determined to be unsafe.<sup>65</sup> However, cosmetic products are prohibited from being “adulterated” or “misbranded,” and the FDA can seize a product, issue an injunction or impose criminal penalties on a manufacturer if a product is deemed adulterated or misbranded.<sup>66</sup> A product is considered misbranded if the label is “false or misleading.”<sup>67</sup> Guidance from the FDA interestingly explains, “[l]abeling may be considered misleading not only because a label statement is deceptive but also because a material fact is not revealed on a label.”<sup>68</sup> This could be interpreted as permitting enforcement

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62. *FDA Authority Over Cosmetics: How Cosmetics Are Not FDA-Approved, but Are FDA-Regulated*, U.S. FOOD & DRUG ADMIN. (Nov. 18, 2025), <https://www.fda.gov/cosmetics/cosmetics-laws-regulations/fda-authority-over-cosmetics-how-cosmetics-are-not-fda-approved-are-fda-regulated> [<https://perma.cc/H9Q4-F9KG>] (noting that companies and individuals who market cosmetics have a legal responsibility to ensure the safety of their products, but the law does not require specific tests to demonstrate safety).

63. See 21 U.S.C. § 379(e) (mandating only premarket approval and listing for color additives used in cosmetics, leaving other cosmetic ingredients presumably exempt from this requirement).

64. *Summary of Cosmetics Labeling Requirements*, U.S. FOOD & DRUG ADMIN. (Nov. 18, 2025), <https://www.fda.gov/cosmetics/cosmetics-labeling-regulations/summary-cosmetics-labeling-requirements#Laws> [<https://perma.cc/267W-KVJX>].

65. *FDA Recall Policy for Cosmetics*, U.S. FOOD & DRUG ADMIN. (Dec. 18, 2025), <https://www.fda.gov/cosmetics/cosmetics-compliance-enforcement/fda-recall-policy-cosmetics> [<https://perma.cc/98F8-KUVA>].

66. AMALIA K. CORBY-EDWARDS, CONG. RSCH. SERV., R42594, *FDA REGULATION OF COSMETICS AND PERSONAL CARE PRODUCTS* 5, 6–8 (2012).

67. 21 U.S.C. § 362(a). A product is also considered misbranded if it does not contain certain statutorily required information including the manufacturer and the quantity or if the container is so “made, formed or filled as to be misleading.” § 362(b)–(f).

68. *Cosmetics Labeling Guide*, U.S. FOOD & DRUG ADMIN. (Feb. 25, 2022), <https://www.fda.gov/cosmetics/cosmetics-labeling-regulations/cosmetics-labeling-guide> [<https://perma.cc/38HB-ED33>] (citing 21 U.S.C. 321(n)).

against cosmetic manufacturers for product's marketed as clean, but the label knowingly does not identify toxic ingredients.<sup>69</sup> Even still, no such enforcement has happened. A cosmetic is considered adulterated if it contains "poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual."<sup>70</sup> Subsequently, the determination of whether a product contains poisonous or deleterious substances focuses on the individual ingredients, not on whether the composition of the cosmetic is harmful.<sup>71</sup> Even still, the enforcement of this provision is limited because no testing is required to determine if the ingredients amount to poisonous or deleterious when used.<sup>72</sup> Additionally, applicable imported products are subject to the regulatory standards for cosmetics, but the FDA does not inspect every product imported into the U.S.<sup>73</sup> The Government Accountability Office (GAO) noted nearly 50 years ago, in 1978, that the FDA does not have the authority to prevent known toxins and carcinogens from being sold on the market.<sup>74</sup>

Cosmetic manufacturers are required to list product ingredients, but the exceptions have swallowed the rule. Manufacturers have not been required to list fragrance, flavor or the potentially all-encompassing "trade secret ingredients."<sup>75</sup> Fragrances can include a range of ingredients associated with various adverse health outcomes.<sup>76</sup> Even more, the requirement

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69. *See id.*

70. 21 U.S.C. § 361(a).

71. *See* Grace Wallack, Note, *Rethinking FDA's Regulation of Cosmetics*, 56 HARV. J. ON LEGIS. 311, 334 (2019).

72. *See* § 361(a); *see also* *FDA Authority Over Cosmetics: How Cosmetics Are Not FDA-Approved, but Are FDA-Regulated*, *supra* note 62 (explaining that the law does not "require specific tests to demonstrate the safety of individual products or ingredients").

73. *See* *FDA Authority Over Cosmetics: How Cosmetics Are Not FDA-Approved, but Are FDA Regulated*, *supra* note 62.

74. *See* H.R. Doc. No. 78-139, at i-ii (1978).

75. *Cosmetics Labeling Guide*, *supra* note 68 (citing 15 U.S.C. § 1454(c)(3)(B)).

76. *See, e.g.,* Sharifa Alblooshi, *The Impact of Perfumes and Cosmetic Products on Human Health: A Narrative Review*, FRONTIERS IN TOXICOLOGY, Aug. 29, 2025, at 2 (summarizing research that links synthetic fragrance components, such as phthalates and VOCs, to endocrine disruption, respiratory issues, and reproductive toxicity). *See* David R. Bickers, Peter Calow, Helmut A.

to list product ingredients does not apply to products marketed and sold exclusively to hair stylists or distributed without cost.<sup>77</sup> The FDA has prohibited and restricted 11 ingredients from being used in cosmetics, and the FDA has noted that the current ingredients banned are not the only ones that may be injurious to consumers.<sup>78</sup> By comparison, the European Union prohibits and restricts over 2,500 ingredients.<sup>79</sup>

Without government oversight, U.S. customers, often unbeknownst to them, have been relying upon the industry to self-police and protect consumer's health. The Cosmetic Ingredient Review ("CIR") panel reviews product safety, and the cosmetics industry trade association established and sponsors the CIR.<sup>80</sup> Subsequently, there is an inherent conflict in relying upon cosmetic manufacturers to notify the public if a product is not safe.<sup>81</sup> The conflict is made clearer when considering that synthetic toxins are often cheaper ingredients with a longer shelf life, compared to less toxic ingredients.<sup>82</sup> Perhaps unsurprisingly, the CIR has determined that the overwhelming majority of products reviewed are safe for sale.<sup>83</sup> The CIR's assessment

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Greim, Jon M. Hanifin, Adrienne E. Rogers, Jean-Hilaire Saurat, I. Glenn Sipes, Robert L. Smith & Hachiro Tagami, *The Safety Assessment of Fragrance Materials*, 37 REGUL. TOXICOLOGY & PHARMACOLOGY 218, 218 (2003).

77. See *Summary of Cosmetics Labeling Requirements*, *supra* note 64.

78. See *Prohibited and Restricted Ingredients in Cosmetics*, U.S. FOOD & DRUG ADMIN. (Feb. 25, 2022), <https://www.fda.gov/cosmetics/cosmetics-laws-regulations/prohibited-restricted-ingredients-cosmetics> [<https://perma.cc/H4TS-PGPK>]. While the FDA recognizes that certain kinds of hair dye contain hazardous ingredients, they are allowed as long as the label contains a "special warning statement and directions for a skin test." *Id.*

79. *Cosmetic Products Regulation, Annex II – Prohibited Substances*, EUR. CHEMS. AGENCY, <https://www.echa.europa.eu/cosmetics-prohibited-substances> [<https://perma.cc/3LCT-VVED>] (last visited Apr. 14, 2026).

80. *About the Cosmetic Ingredient Review*, COSM. INGREDIENT REV., <https://www.cir-safety.org/about> [<https://perma.cc/M8K4-UEFD>] (last visited Apr. 14, 2026). The CIR website explains that the Personal Care Products Council established the CIR "with the support of the U.S. Food and Drug Administration and the Consumer Federation of America." *Id.*

81. See *id.*

82. *What's the Risk? Synthetic vs Natural Chemical Ingredients*, MICH. STATE UNIV. CTR. FOR RSCH. ON INGREDIENT SAFETY (May 5, 2025), <https://cris.msu.edu/news/whats-the-risk/whats-the-risk-synthetic-vs-natural-chemical-ingredients/> [<https://perma.cc/M8G9-3YXT>].

83. See Boyd, *supra* note 10, at 300 (explaining that out of 4,740 total ingredients tested by CIR, 4,611 were deemed safe, and only 12 were determined to be unsafe).

of safety is also predominantly focused on dermatological and short-term irritants.<sup>84</sup>

### B. Race and Gender Analysis

Legal scholars have offered analyses to demonstrate that the lack of cosmetic regulations disproportionately burdens women, particularly Black women. For instance, law professor Marie Boyd examined the legislative history of the FDCA and its predecessor, the Pure Food and Drug Act.<sup>85</sup> She concluded that the regulation of cosmetics has been deprioritized compared to food and drugs because cosmetics are primarily a concern for women.<sup>86</sup> Professor Boyd explained that this history remains relevant given cosmetic regulation has not changed significantly since the law's passage in 1938.<sup>87</sup> I would offer that even with MoCRA's enactment this remains true given much of the existing regulatory scheme remains in place, as discussed below.<sup>88</sup> Similarly, there have been arguments made that the FDA's regulatory approach was built on racism. Legal scholar Daniel Kracov explains that eugenics, or at least eugenic proponents, shaped the early formation of the FDA.<sup>89</sup> This history, he explains, has an impact on the FDA's current regulatory practices over products have stated that cosmetics are safer than the other categories under the agency's purview to regulate.<sup>90</sup> For instance, former FDA Commissioner Frank Young stated "[a]dverse reactions to cosmetics are [usually] of lesser

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84. *Id.*

85. *Id.* at 307. Before joining the University of South Carolina School of Law as a law professor, Marie Boyd served on several food and drug law advisory agencies, including as a Biden administration appointee for the Board of International Food and Agricultural Development. *Faculty Directory: Marie C. Boyd*, UNIV. OF S.C. SCH. OF L., [https://sc.edu/study/colleges\\_schools/law/faculty\\_and\\_staff/directory/boyd\\_marie.php](https://sc.edu/study/colleges_schools/law/faculty_and_staff/directory/boyd_marie.php) [https://perma.cc/Q2J7-U3TC] (last visited Mar. 31, 2026).

86. Boyd, *supra* note 10, at 289–90.

87. *Id.* at 295.

88. *See infra* Part IV.A.

89. Daniel Kracov, *Eugenics and the Development of U.S. Food and Drug Law*, 77 FOOD & DRUG L.J. 135, 172 (2022).

90. Boyd, *supra* note 10, at 292.

consequence.”<sup>91</sup> Further, the FDA has failed to impose safety standards necessary to protect women’s health, while the FDA has also overregulated when it relates to controlling women’s bodies.<sup>92</sup> Law professor Colleen Campbell explains that this overregulation is evidenced by (1) the unnecessary barriers to the approval of abortion drug mifepristone; (2) initially limiting over-the-counter access for emergency contraceptives; and (3) approving certain medications and devices including embedding racial bias and adjustments in the clinical development of drugs and medical devices.<sup>93</sup> Even more, some have argued that the FDA’s failure to ban formaldehyde, a harmful ingredient in chemical relaxers, is because the harm is most felt among Black women.<sup>94</sup> Notably, as early as 1981, the federal government described formaldehyde as “reasonably anticipated to be a human carcinogen,” and it is now listed as a known human carcinogen.<sup>95</sup> Today, cosmetics can still be sold in the US containing formaldehyde.<sup>96</sup>

Further, scholars have pointed out the cultural significance of cosmetic use for women, including the unique concerns among Black women.<sup>97</sup> Professor Boyd explains that “[c]osmetics use may not be voluntary for women,” because cosmetics

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91. Morgan G. Egeberg, *Beauty Is Pain: An Analytical View of the American Beauty Industry and the Effects of Regulation on Consumers*, 23 QUINNIPIAC HEALTH L.J. 303, 305 (2020).

92. Campbell, *supra* note 55.

93. *Id.* at 11–16.

94. See Campbell, *supra* note 55, at 78–79; Linda Villarosa, *The Disturbing Truth About Hair Relaxers*, N.Y. TIMES MAG. (June 13, 2024), <https://www.nytimes.com/2024/06/13/magazine/hair-relaxers-cancer-risk.html> [<https://perma.cc/EUJ3-DSQZ>].

95. Campbell, *supra* note 55; Villarosa, *supra* note 94; *Formaldehyde*, NAT’L INST. ENV’T HEALTH SCIS. (Mar. 6, 2026), <https://www.niehs.nih.gov/health/topics/agents/formaldehyde> [<https://perma.cc/A2LY-CNYY>].

96. See Office of Info. & Reg. Affs., Off. of Mgmt. & Budget, RIN 0910-AI83, *Use of Formaldehyde and Formaldehyde-Releasing Chemicals as an Ingredient in Hair Smoothing Products or Hair Straightening Products*, REGINFO.GOV, <https://www.reginfo.gov/public/do/eAgenda-ViewRule?pubId=202410&RIN=0910-AI83> [<https://perma.cc/G3TN-VKXM>] (last visited Apr. 14, 2026). See also Jacqueline Howard, *FDA Misses Another Deadline on Proposed Ban on Formaldehyde in Hair-Straightening Products*, CNN (Jan. 5, 2026), <https://www.cnn.com/2026/01/05/health/hair-straightening-formaldehyde-fda-deadline> [<https://perma.cc/5SMM-BJ99>].

97. NUDELMAN ET AL., *supra* note 22, at 7 (“Black women . . . purchase and use more beauty products per capita than any other demographic.”).

can be explicitly and implicitly required for employment.<sup>98</sup> Law professor Angela P. Harris has aptly stated, “[t]he relation of Black women to the ideal of white beauty is not a more intense form of white women’s frustration: It is something, other, a complex mingling of racial and gender hatred.”<sup>99</sup> In a 2024 article focused on skin-lightening cosmetic products, Professor Campbell explains that the cosmetic industry has constructed and capitalized on a standard of beauty that elevates whiteness.<sup>100</sup> To this end, these manufacturers have marketed products with harmful toxins predominantly to Black women as a means—really, the only means—to achieve the white, idealized standard of beauty.<sup>101</sup> Professor Campbell then goes on to call for an intersectional analysis to be applied to cosmetic regulation.<sup>102</sup>

Most relevant here, legal scholars have identified the impact of cultural norms related to hair and the impact on Black women resulting from a failure in the law.<sup>103</sup> Law professor Paulette M. Caldwell wrote that the hair’s ability to be manipulated has made it ripe for societal expectations that it will be manipulated to meet a mainstream version of beauty.<sup>104</sup> Further, she explains that the decision to not manipulate one’s hair to meet European standards of beauty “conflict[s] with the assumptions that underlie the existing social order.”<sup>105</sup> Several scholars have noted that this societal pressure has led many Black women to chemically straighten their hair, and the FDA’s failure to regulate cosmetics has resulted in Black women being disproportionately harmed by the toxins included, such as formaldehyde.<sup>106</sup> Similarly, there have been arguments made that the

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98. Boyd, *supra* note 10, at 290.

99. Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 597–98 (1990).

100. Campbell, *supra* note 55, at 1–2.

101. *Id.*

102. *Id.* at 2.

103. See Caldwell, *supra* note 1, at 383–84.

104. *Id.*

105. *Id.* at 384.

106. Maria Manansala, *National CROWN Day: How Banning Hair Discrimination Uplifts Black Women in the Labor Force*, NAT’L P’SHIP FOR WOMEN & FAMS. (June 29, 2023),

FDA's regulatory approach was built on racism.<sup>107</sup> Daniel Kracov explains that eugenics, or at least eugenic proponents, shaped the early formation of the FDA.<sup>108</sup> This history, he explains, has an impact on the FDA's current regulatory practices over products and devices, including embedding racial bias and adjustments in the clinical development of drugs and medical devices.<sup>109</sup>

Even still, Black women's exposure to toxic chemicals cannot be blamed on their individual cosmetic decisions. Professor Campbell identifies the problem with public health interventions that focus on skin-lightening as primarily a problem of self-hate.<sup>110</sup> This individual focus, she explains, ignores "the root structural forces at play," namely systemic racism.<sup>111</sup> The Natural Hair movement demonstrates the problem with focusing on the individual motivations. As explained below, a core focus of the Natural Hair movement has been embracing a self-love of one's hair,<sup>112</sup> which would be the antidote if toxin exposure could be resolved or blamed on individual behavior.<sup>113</sup> Yet, women wearing their hair naturally are frequently exposed to harmful toxins in hair care products.<sup>114</sup>

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<https://nationalpartnership.org/national-crown-day-banning-hair-discrimination-uplifts-black-women-labor-force/> [https://perma.cc/5SGU-C2UP].

107. See Daniel A. Kracov, *Eugenics and the Development of U.S. Food and Drug Law*, 77 FOOD & DRUG L.J. 135, 172–74 (2022).

108. *Id.* at 172.

109. *Id.* at 172–73.

110. Campbell, *supra* note 55, at 44.

111. *Id.*

112. *The Natural Hair Movement: Black Is Beautiful*, FLORA & CURL (Oct. 31, 2023), <https://floracurl.com/blogs/curl-blog/the-natural-hair-movement-black-is-beautiful> [https://perma.cc/L85R-CXSC].

113. See, e.g., Eleni Prifti & Austen El-Osta, *Gender, Self-Care and Toxic Exposures: A Narrative Review of Personal Care Product Use and Health Equity Implications*, 3 BRIT. MED. J. PUB. HEALTH 1, 7 (2025).

114. Karen Feldscher, *Uncovering the Dangers of Hair Products Marketed to Black Women, Girls*, HARV. T.H. CHAN SCH. OF PUB. HEALTH (June 15, 2024), <https://hsph.harvard.edu/news/uncovering-the-dangers-of-hair-products-marketed-to-black-women-girls/> [https://perma.cc/NC79-XMQG].

### C. Clean Beauty Analysis

Legal scholars have noted that the barebones regulatory framework for cosmetics allows product manufacturers to mislead consumers.<sup>115</sup> Neither Congress nor the FDA defined the terms “clean,” “natural,” or “organic” governing cosmetics.<sup>116</sup> Consumers often believe a product labeled ‘clean’ is natural, vegan, organic or overall toxin-free.<sup>117</sup> Scholars writing on clean beauty have highlighted the FTC and FDA’s inability or unwillingness to regulate and enforce labeling standards.<sup>118</sup> Specifically, scholars have labelled manufacturers’ approach to marketing cosmetics as clean and natural as greenwashing, which has traditionally been used to describe manufacturers falsely conveying a product as environmentally or health-conscious.<sup>119</sup>

Scholarship on clean beauty has frequently failed to apply a racial analysis.<sup>120</sup> Further, the centering of whiteness in a clean beauty analysis is part of a long history of centering whiteness in environmental concerns.<sup>121</sup> In the field of environmental sciences, the environmental injustice of beauty has been described as a conceptual framework connecting systemic oppression,

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115. See Boyd, *supra* note 10, at 302; Justice Tecson, *Total Makeover: Federal Cosmetics Regulation and Its Need for Legislative Overhaul To Ensure Consumer Protection*, 51 GOLDEN GATE U. L. REV. 127, 130, 132–33 (2021).

116. *Small Businesses & Homemade Cosmetics: Fact Sheet*, U.S. FOOD & DRUG ADMIN. (Nov. 18, 2025), <https://www.fda.gov/cosmetics/resources/industry-cosmetics/small-businesses-homemade-cosmetics-fact-sheet> [<https://perma.cc/WJ9U-5AJR>]; Daniel John Boscaccy, *Greenwashing Exposed: Why ‘Clean Beauty’ Brands Are Lying to You*, UNEARTH (Nov. 9, 2025), <https://unearthorganics.com/greenwashing-exposed-why-clean-beauty-brands-are-lying-to-you/> [<https://perma.cc/T3CA-AA9G>].

117. Dragus, *supra* note 36, at 899–902 (explaining that consumers often have varied and different views on the definition of “clean beauty”).

118. Perryman, *supra* note 56, at 181; Avery Auton, *Clean Beauty: A Void in Consumer Protection*, CIN. L. REV. BLOG ARTICLES (Mar. 6, 2024), <https://uclawreview.org/2024/03/06/clean-beauty-a-void-in-consumer-protection/> [<https://perma.cc/4QJG-RB27>].

119. Alexa Riccolo, *The Lack of Regulation in Preventing Greenwashing of Cosmetics in the U.S.*, 47 NOTRE DAME J. LEGIS. 133, 135 (2021).

120. McDonald et al., *supra* note 56, at 51.

121. *Id.*; Rachel Jones, *The Environmental Movement Is Very White. These Leaders Want to Change That.*, NAT’L GEOGRAPHIC (July 29, 2020), <https://www.nationalgeographic.com/history/article/environmental-movement-very-white-these-leaders-want-change-that> [<https://perma.cc/LV4Y-USG3>]. This inequity led to the growth of the environmental justice movement. See Jedediah Purdy, *The Long Environmental Justice Movement*, 44 ECOLOGY L.Q. 809, 819–22 (2018).

namely racism and sexism, and beauty standards based on Eurocentric traits.<sup>122</sup> Again, a key concern within this literature has been how the pursuit of Eurocentric standards of beauty leads to communities of color facing an increased exposure to chemical toxins.<sup>123</sup> One article, entitled *Dark Roots: Detangling the Nexus Between Black Haircare, Public Health, and Clean Beauty Equity*, does frame the failure to regulate chemical relaxers as an issue for which Clean Beauty proponents should be concerned.<sup>124</sup> However, this Article looks beyond the harm imposed by the pursuit of Eurocentric standards of beauty to the harm experienced by those looking to avoid Eurocentric standards.

## II. THE MOVEMENT: HISTORY AND PURPOSE

The dictionary definition of a social movement is a “loosely organized but sustained campaign in support of a social goal, typically either the implementation or the prevention of a change in society’s structure or values.”<sup>125</sup> Consistent with this definition, the Natural Hair movement is a collection of Black women changing society’s perception of beauty. Speakers in the *Back to Natural* documentary explained how hairstyle selections have come to be defined as a “movement. “It will continue to be a movement because we are fighting for our ability to be ourselves, we are fighting for our Blackness.”<sup>126</sup> The Natural Hair movement is embraced as a “metaphor for race, identity, and culture.”<sup>127</sup> “[B]lack hair is political,” declared Natasha

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122. Ami R. Zota & Eva L. Siegel, *Invited Perspectives: Critical Needs for Advancing Beauty Justice*, 133 ENV’T HEALTH PERSPS. 1, 1 (2025); McDonald et al., *supra* note 56, at 50.

123. McDonald et al., *supra* note 56, at 50–51; see Zota & Siegel, *supra* note 122, at 1.

124. See Anietie Akpan, *Dark Roots: Detangling the Nexus Between Black Haircare, Public Health, and Clean Beauty Equity*, HOU. LAW., Jan.–Feb. 2023, at 24, 25–26.

125. *Social Movement*, ENCYCLOPEDIA BRITANNICA (Mar. 26, 2026), <https://www.britannica.com/topic/social-movement> [<https://perma.cc/3DMM-THNC>].

126. GILLIAN SCOTT-WARD, *Back to Natural: A Documentary Film (2 Min Sizzle)*, at 00:16–00:55 (Vimeo, Feb. 23, 2017, at 00:22 ET), <https://vimeo.com/205334113?fl=pl&fe=sh> [<https://perma.cc/QFM2-56M9>]. For the full documentary, see *BACK TO NATURAL*, at 20:13–26:15 (Gillian Scott-Ward dir., 2019), <https://www.youtube.com/watch?v=PNVEymq3DOc> [<https://perma.cc/AP3D-SGFB>].

127. See *BACK TO NATURAL*, *supra* note 126, at 08:27–08:53.

Gaspard, an Emmy Award-nominated producer, in the film.<sup>128</sup> Not every Black woman selects her hairstyle to make a political statement. However, the hairstyles of African women and women of the African diaspora have for generations carried cultural, spiritual, and political significance, and Black hair has, for generations, had health, economic and interpersonal ramifications.<sup>129</sup> The Natural Hair movement is international, but the movement's origins are in the United States, which is the focus of this Article.<sup>130</sup>

This Part examines the multiple facets of the Natural Hair movement, including culture and beauty; law, politics and economics; and health and wellness. Each Section herein explores dominant reasons and factors contributing to the movement. Additionally, this Part reflects on how the Natural Hair movement has evolved over time. This context is provided to inform the proposed policy recommendations and ensure legal reform is aligned with real-world cosmetic use. This context is also offered to demonstrate that Black women who are not in pursuit of Eurocentric standards can also be harmed.

### A. Culture and Beauty

It is difficult to put a precise start date on the Natural Hair movement, and it may be more accurate to state that the movement has had multiple starting points in history.<sup>131</sup> In recent history, the Natural Hair movement is most often associated with the 1960s and 1970s.<sup>132</sup> Many young people, at the time, sought to abandon “respectability politics” or the notion that white society would embrace, or at least treat Black people with respect,

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128. *Id.* at 08:20–08:25.

129. *See id.* at 08:25–12:16.

130. Naomi Thrower, *Crowning Glory: Unpacking the Social and Historical Journey of Natural Hair*, ARCGIS STORYMAPS (Dec. 12, 2024), <https://storymaps.arcgis.com/stories/f2ccba6bcc1c4ecfa78822796e1ac257> [https://perma.cc/L5XV-QMFG]; *see also* Wong et al., *supra* note 3, at 96 (discussing the emergence of the Natural Hair movement out of the United States in the 2000s).

131. *See id.*

132. AYANA D. BYRD & LORI L. THARPS, *HAIR STORY: UNTANGLING THE ROOTS OF BLACK HAIR IN AMERICA* 51 (2001).

if Black people behaved and dressed “properly.”<sup>133</sup> Following slavery, Black Americans largely sought to assimilate into white dominant culture, and hairstyles most associated with whiteness became a requirement for societal entry.<sup>134</sup> During the early 20th century, there were elite Black society organizations who adopted the “paper bag” test, whereby anyone darker than a paper bag was denied entry, and other organizations deployed the “comb test,” whereby only people who could pull a comb through their hair obtained entry.<sup>135</sup> Hair with looser waves or curls, i.e. closer to whiteness, has been characterized as “good,” and hair more tightly curled or kinky is “bad.”<sup>136</sup> Overall, there was a societal message delivered to Black Americans, from both white and Black people, that social and economic upward mobility could only be attained through mimicking white aesthetic, including hairstyles.<sup>137</sup> Straight hair was considered well-kept and respectable, and, therefore, socially acceptable.<sup>138</sup> Given that many Black women do not possess straight hair naturally, this has, for generations, led Black women to chemically straighten or press their hair.<sup>139</sup>

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133. See, e.g., *id.* at 25–28.

134. See Caldwell, *supra* note 1, at 391–92.

135. BYRD & THARPS, *supra* note 132, at 22–23; see also Selena Bond & Thomas F. Cash, *Black Beauty: Skin Color and Body Images Among African-American College Women*, 1992 J. APPLIED SOC. PSYCH. 874, 874 (explaining how affluent African American social clubs required “caucasoid physiognomic criteria,” assessed by the “comb test” and “paper bag” test).

136. See Manka Nkimheng, Bernice B. Malaika Rumala, Crystal M. Richardson, Shemekka Ebony Stewart-Isaacs & Janiece L. Taylor, *The Person Beneath the Hair: Hair Discrimination, Health, and Well-Being*, 7.1 HEALTH EQUITY 406, 407 (2023) (“In the United States, enslaved Africans with natural hair worked in the fields, whereas those who worked inside the home wore their hair in patterns similar to the slave masters’ straight hair. These were the origins of straightening natural hair, which has been prejudicially described as ‘good hair.’ In contrast, natural hair without any treatment is referred to as ‘bad hair’ or ‘unprofessional.’”).

137. See *id.*

138. *Id.*; see also Chanté Griffin, *How Natural Black Hair at Work Became a Civil Rights Issue*, JSTOR DAILY (July 3, 2019), <https://daily.jstor.org/how-natural-black-hair-at-work-became-a-civil-rights-issue/> [<https://perma.cc/A2KK-8637>] (using Madam C.J. Walker’s achievement of becoming America’s first self-made female millionaire by popularizing the hair-straightening comb as an example to show how straight hair became associated with social mobility and respectability in the U.S.).

139. Angela Onwuachi-Willig, *Another Hair Piece: Exploring New Strands of Analysis Under Title VII*, 98 GEO. L.J. 1079, 1086–87 (2010); see also Caldwell, *supra* note 1, at 365–68 (using personal narrative and discussion of *Rogers v. American Airlines*, 527 F. Supp. 229 (S.D.N.Y. 1981), to assert the ways courts and society have stigmatized Black hair in the workplace).

The Natural Hair movement of the 1960s and 1970s sought to reject this idea.<sup>140</sup> During this time, many began to believe performing “properly” for white people had not benefited Black people throughout American history.<sup>141</sup> Instead, Black people began to express a desire to “get back to our roots.”<sup>142</sup> For many Black Americans, this included learning about and embracing African heritage.<sup>143</sup> Africans had for centuries communicated through hairstyles.<sup>144</sup> For instance, certain hairstyles were worn to celebrate marriage and express grief without words.<sup>145</sup> Slave traders often shaved enslaved Africans’ hair during the middle passage or upon arrival into the colonies.<sup>146</sup> The shaving of their hair had both the intent and effect to dehumanize and humiliate.<sup>147</sup>

The proliferation of Afros among Black people in the 1960s was accompanied by a broader shift in outwardly embracing African and Black heritage and culture.<sup>148</sup> For example, it became more common to see Black people wearing clothes with African patterns, such as dashikis.<sup>149</sup> Beyond hair and clothes, there was a message that “Black is Beautiful,” and it was no

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140. Griffin, *supra* note 138 (“The ‘Black Is Beautiful’ movement assured black women and men that their skin, facial features, and natural hair were admirable—as is. The activist Marcus Garvey encouraged black women to embrace their natural kinks, arguing that copying white eurocentric standards of beauty denigrated the beauty of black women: ‘Don’t remove the kinks from your hair! Remove them from your brain!’”).

141. BYRD & THARPS, *supra* note 132, at 50–52.

142. *Id.* at 93.

143. *Id.* at 51.

144. *Id.* at 2–3.

145. *See id.* at 2–7.

146. *Id.* at 10.

147. Given the significance of hair in African cultures, shaving enslaved people’s heads was an “unspeakable crime” and served as a tactic to “tak[e] away someone’s identity.” BYRD & THARPS, *supra* note 132, at 10 (internal quotations omitted).

148. *See* Griffin, *supra* note 138 (describing Angela Davis and James Brown’s work around the pride of wearing afros during the 1960s, including the lyrics to James Brown’s “Say It Loud” song).

149. Amanda Boggio, *Dashiki*, FASHION HIST. TIMELINE (Nov. 15, 2025), <https://fashionhistory.fitnyc.edu/dashiki/> [<https://perma.cc/8ZP2-UURT>] (“A dashiki is a loose-fitting, pullover shirt usually sewn from colorful, African-inspired cotton prints or from solid color fabrics, often with patch pockets and embroidery at the neckline and cuffs. The dashiki appeared on the American fashion scene during the 1960s when embraced by the black pride and white counterculture movements.”).

longer an insult to be called “Black.”<sup>150</sup> Illustratively, in 1968, James Brown’s “Say it Loud, I’m Black and I’m Proud” reached number one on the Rhythm & Blues charts for six weeks and number ten on the Billboard top 100.<sup>151</sup>

Following a lull in popularity, there has been a marked increase beginning in the early 2000s, in Black women forgoing chemical hair straightening.<sup>152</sup> The *Back to Natural* documentary explains that, in the early 1990s, a large population of Black women wore their hair naturally, particularly in large cities on the East and West Coasts.<sup>153</sup> However, the growth of the internet, particularly the launch of YouTube in 2005, exposed Black women to other Black women beyond the geographic locations where they lived.<sup>154</sup> First, the internet provided a platform for Black women interested in natural hairstyles to see other women also interested in similar styles—making the styles less of an oddity and more socially acceptable.<sup>155</sup> Second, more practically, the internet afforded women, especially those not located in cities with natural hair salons, practical advice on maintaining and adopting natural hairstyles.<sup>156</sup> Together, this increased knowledge and awareness resulted in expanding the natural hair option to more women.<sup>157</sup>

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150. See Griffin, *supra* note 138 (describing Angela Davis’s work around the pride of wearing afros and afros as weapons in the fight for racial justice during the 1960s).

151. James Brown, whose hair was no doubt straightened, demonstrates that Black pride was not limited to those wearing natural hair. Callie Crossley, *Honoring the Legacy of James Brown’s ‘Say it Loud’*, WGBH (Aug. 6, 2018), <https://www.wgbh.org/news/commentary/2018-08-05/honoring-the-legacy-of-james-browns-say-it-loud> [<https://perma.cc/T8VH-ZUMT>].

152. Nkimbeng et al., *supra* note 136, at 407.

153. See BACK TO NATURAL, *supra* note 126, at 16:01–21:13.

154. See Ellis-Hervey et al., *supra* note 25, at 876 (explaining how many Black women have documented their natural hair journey online through blogs and videos); see also Aimee Simeon, *Politics, Policy, & Social Media: How Natural Hair Has Influenced a Generation*, REFINERY29 (Feb. 23, 2021, at 22:30 ET), <https://www.refinery29.com/en-us/natural-hair-industry-history-evolution> [<https://perma.cc/TCT2-UJ74>] (recounting the influence social media had on woman’s own decision to adopt natural hairstyles).

155. Simeon, *supra* note 154.

156. *Id.*

157. *Id.*; Thrower, *supra* note 130 (noting the important role social media has played in “creating a global community where Black individuals share tutorials, discuss products, and embrace their natural textures”).

The new Natural Hair movement has embraced African traditions and heritage like the earlier wave of the movement.<sup>158</sup> While the Afro dominated the Natural Hair movement of the 1960s and 1970s, it is not uncommon now to see Black American women embracing a range of hairstyles that African women have worn for centuries, including Afros, dread locks or locs, Bantu knots, cornrows, Senegalese twists, braids, and various other combination styles.<sup>159</sup> For instance, African women and men have braided their hair for thousands of years, and African American and other Black women throughout the diaspora have chosen to adopt braided styles as a celebration of their African heritage.<sup>160</sup> The origins of dreadlocks or locs have been debated, but there is evidence that the hairstyle goes back as far as ancient Egypt.<sup>161</sup> Just as in the movement's past, there are people within the Natural Hair movement that view wearing these hairstyles as embracing their "roots" and, more specifically, embracing a standard of beauty that has been born outside of European culture.<sup>162</sup> The increased adoption of African hairstyles has come at a time when more Black Americans are also wearing clothing with traditional African patterns.<sup>163</sup>

The new Natural Hair movement has been less associated with an outright rejection of traditional standards of beauty; however, as more women have embraced their natural hair, new standards have become more mainstream.<sup>164</sup> Social media influencers and bloggers promoting content on natural hair often include within their coming-of-age story growing up with

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158. Thrower, *supra* note 130 (arguing that the "exploration of natural hair" has become a "significant cultural, historical, and political symbol for people of African descent worldwide").

159. Madison Horne, *A Visual History of Iconic Black Hairstyles*, HIST. (May 27, 2025), <https://www.history.com/articles/black-hairstyles-visual-history-in-photos> [<https://perma.cc/8AXZ-V56N>].

160. BYRD & THARPS, *supra* note 132, at 1–2.

161. Horne, *supra* note 159.

162. See BYRD & THARPS, *supra* note 132, at 51; Simeon, *supra* note 154.

163. See, e.g., Boggio, *supra* note 149 (describing how dashikis, a symbolic African garment, had a recent "revival in popularity" in 2012 and are still commonly worn today).

164. See Simeon, *supra* note 154.

limited images of beauty.<sup>165</sup> For instance, the founder of Going-Natural.com explained that she created “America’s Next Natural Model,” an online display of people showcasing natural hairstyles, to promote a not often celebrated “Black beauty.”<sup>166</sup> The new movement has sought to embrace individual choices, namely the choice to wear one’s hair as a person wishes, even if not consistent with Eurocentric beauty standards. Even still, some have stated that the pendulum has swung too far in the opposite direction with judgment being directed toward those Black women who do choose to chemically straighten their hair.<sup>167</sup>

### B. Law, Politics, and Economics

Black hair has always been intertwined with the law and politics. As far back as the 1930s, when Black Nationalism was forming, Marcus Garvey encouraged Black people by saying, “[d]on’t remove the kinks from your hair! . . . Remove them from your brain!”<sup>168</sup> During the 1960s and 1970s, the movement for social and political equality was explicitly connected to calls for self-love and self-expression.<sup>169</sup> For some thought leaders, this meant embracing natural hair. Malcolm X challenged during a speech in 1962, “[w]ho taught you to hate the texture of your hair? . . . Who taught you to hate yourself, from the top of your head to the soles of your feet?”<sup>170</sup> Malcolm X expressed that as Black people in America throw off the “shackles of

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165. See, e.g., *id.* (introducing a social media pioneer who began her story because she “entered the scene in 2009, and at the time, there weren’t a lot of women with [her] hair type”).

166. *America’s Next Natural Model*, GOING NAT., <https://going-natural.com/category/america-next-natural-model/> [<https://perma.cc/ZT5W-YD37>] (last visited Mar. 25, 2026).

167. Faith Karimi, *When It Comes to Their Hair, Black Women Face a Difficult Choice*, CNN HEALTH (Oct. 22, 2022, at 22:16 ET), <https://www.cnn.com/2022/10/22/health/hair-straighteners-cancer-black-women-cec> [<https://perma.cc/H8BW-D8L5>].

168. Monica C. Bell, *The Braiding Cases, Cultural Deference, and the Inadequate Protection of Black Women Consumers*, YALE J.L. & FEMINISM 125, 130–31 (2007).

169. See BACK TO NATURAL, *supra* note 126, at 16:22–17:29; BYRD & THARPS, *supra* note 132, at 53.

170. See *Who Taught You to Hate Yourself?*, GENIUS, <https://genius.com/Malcolm-x-who-taught-you-to-hate-yourself-annotated> [<https://perma.cc/XC89-KH7X>] (last visited Apr. 6, 2026).

mental colonialism” they would “throw off the shackles of cultural colonialism” and begin to reflect “standards of their own.”<sup>171</sup>

During this time, many Black Americans, particularly, young people, sought to shed themselves of the political norms that had come to define the preceding generation; this included shifting from a movement prioritizing integration to one advancing Black liberation, and it also included a shift toward dress and hairstyles that did not center Eurocentric standards.<sup>172</sup> Illustratively, the Black Panther Party’s leadership and membership included Black people disheartened with the nonviolent, integration-seeking Civil Rights Movement.<sup>173</sup> While the Black Panther Party was primarily concerned with eliminating social injustices, many young people wanted to emulate the Black Panther’s message of “Black Power,” as well as the Afros of its prominent leaders such as Angela Davis.<sup>174</sup> During this time, a person’s politics might be assumed from a person’s hairstyle.<sup>175</sup> Whether or not it was the wearer’s intent, the Afro became associated with an anti-establishment sentiment.<sup>176</sup>

While the new Natural Hair movement has been less explicitly linked to one political ideology, old assumptions and stereotypes about a Black person’s politics continue to exist.<sup>177</sup> For instance, in 2008, Barry Blitt illustrated a drawing that appeared on the cover of the *New Yorker* magazine with Barack Obama’s head wrapped in a turban while he fist-bumped an angry-

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171. See *Malcolm X After His Return from Mecca (1964)*, at 04:19–04:27 (Youtube, Nov. 1, 2019), [https://www.youtube.com/watch?v=fc1tX\\_5LP7A](https://www.youtube.com/watch?v=fc1tX_5LP7A) [<https://perma.cc/Z82H-8NML>]; BYRD & THARPS, *supra* note 132, at 48.

172. See BYRD & THARPS, *supra* note 132, at 48, 51–53.

173. For example, Kwame Toure, who was born Stokely Carmichael, was a leader of the Black Panther Party after being one of the Student Nonviolent Coordinating Committee freedom riders. See *Stokely Carmichael*, BRITANNICA (Dec. 19, 2025), <https://www.britannica.com/biography/Stokely-Carmichael> [<https://perma.cc/W3AN-3XAQ>].

174. See Angela Y. Davis, *Afro Images: Politics, Fashion and Nostalgia*, 21 *CRITICAL INQUIRY* 37, 37 (1994); see also Bell, *supra* note 168, at 131 (declaring that Angela Davis “became just as famous for her large afro as her activism”).

175. See BYRD & THARPS, *supra* note 132, at 56–59.

176. See Griffin, *supra* note 132.

177. Barry Blitt, *The Politics of Fear*, *THE NEW YORKER* (July 21, 2008), <https://www.newyorker.com/magazine/2008/07/21> [[perma.cc/B5NC-XAR2](https://perma.cc/B5NC-XAR2)].

looking Michelle Obama.<sup>178</sup> Notably, Mrs. Obama wore a machine gun and, not incidentally, adorned a sizable Afro.<sup>179</sup> Britt claimed the photo entitled, “Fistbump: The Politics of Fear” was satirical, but the widespread backlash highlighted the fear that many would see an accurate portrayal in the photo.<sup>180</sup> Related, Mrs. Obama mostly wore her hair straightened publicly during her husband’s tenure as President, but she frequently adorns braided hairstyles since leaving the White House.<sup>181</sup> Mrs. Obama has explained that she believes much of the country was not “ready” to see the first African American First Lady with unstraightened hair, and she did not want to distract from political and policy conversations.<sup>182</sup>

Black economic well-being has been explicitly linked to Black hair. In *Hair Story*, authors Ayana Byrd and Lori Tharps, explain that the life and careers of Madam C.J. Walker and Annie Turnbo Malone illustrate the connection between hair and economic success in the Black community.<sup>183</sup> Ms. Walker and Ms. Turnbo formed international companies and accumulated millions of dollars from selling hair care products to Black women during a time when most women did not work outside of the home and poverty was widespread among Black people.<sup>184</sup> Turnbo and Malone also trained women on an approach

178. *Id.*

179. *See id.*

180. Suzanne Goldenberg, *US Election: ‘Terrorist Fist Bump’ Cartoon Misfires*, THE GUARDIAN (July 14, 2008, at 19:01 ET), <https://www.theguardian.com/world/2008/jul/15/barackobama.usa> [perma.cc/TEQ4-23JX]; Mary Louise Kelly, *‘I’m Just Trying To Make Myself Laugh’: ‘New Yorker Artist Shares His Cover Stories*, NPR (Oct. 20, 2017, at 23:00 ET), <https://www.npr.org/2017/10/20/558777025/im-just-trying-to-make-myself-laugh-new-yorker-artist-shares-his-cover-stories> [perma.cc/HN5Y-76PW].

181. Kara Nesvig, *Michelle Obama Wanted to Wear Braids in the White House, but Americans ‘Weren’t Ready’*, ALLURE (Nov. 18, 2022), <https://www.allure.com/story/michelle-obama-braids-white-house> [https://perma.cc/9L7W-QMVR].

182. *See* Asia Alexander, *Beyond the Ballot: The Politics of Black Hair*, GIRLS UNITED ESSENCE (Aug. 23, 2024), <https://girlsunited.essence.com/beauty/beyond-the-ballot-kamala-silk-press-hair/> [https://perma.cc/BWU2-8WWX]. *See generally* MICHELLE OBAMA & MEREDITH KOOP, THE LOOK (2025) (describing Michelle Obama’s fashion choices during her husband’s political career).

183. BYRD & THARPS, *supra* note 132, at 31.

184. *See id.* at 31–35. While women were only about 20% of the workforce, Black women were twice as likely to work outside of the home compared to white women. Janet L. Yellen,

to styling hair, and this, in turn, lead to other Black women also earning money and establishing careers.<sup>185</sup> From slavery times to the present, barbers and beauticians have been a popular career choice among Black Americans.<sup>186</sup> More recently, there is a growing number of small, Black-owned businesses developing hair care products marketed as clean,<sup>187</sup> and even more, online databases geared toward Black women seeking “clean” beauty products.<sup>188</sup>

Related, the law — or the lack of legal protections — continues to undoubtedly influence Black women’s decisions to wear or not wear natural hairstyles. Ironically, wearing your hair curly or kinky, as it may grow naturally, has often come with the acceptance that you will not be able to work at certain places.<sup>189</sup> This history has continued, and it has also included exclusion from certain careers altogether. For example, in the often-cited, *Rogers v. American Airlines*, a federal court held in 1981 that it was permissible for American Airlines to prohibit an African American flight attendant from wearing her hair in braids.<sup>190</sup> In 2010, Chastity Jones had a customer service job offer rescinded after she refused to cut her locs, and the Supreme Court refused

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*The History of Women’s Work and Wages and How It Has Created Success for Us All*, BROOKINGS (May 2020), <https://www.brookings.edu/articles/the-history-of-womens-work-and-wages-and-how-it-has-created-success-for-us-all/> [<https://perma.cc/E83Q-QG24>].

185. See *Annie Malone and Madam C.J. Walker: Pioneers of the African American Beauty Industry*, SMITHSONIAN: NAT’L MUSEUM OF AFR. AM. HIS. & CULTURE, <https://nmaahc.si.edu/explore/stories/annie-malone-and-madam-cj-walker-pioneers-african-american-beauty-industry> [<https://perma.cc/C94R-P4NR>] (last visited Mar. 30, 2026).

186. BYRD & THARPS, *supra* note 132, at 73–77.

187. See, e.g., *About Us*, BLK+GRN, <https://blkgrn.com/pages/about> [<https://perma.cc/KX3G-M2GB>] (last visited Mar. 30, 2026); see also *Cosmetic Science Program*, SPELMAN COLL., <https://www.spelman.edu/academics/cosmetic-science/index.html> [<https://perma.cc/L3GN-3RB2>] (last visited Mar. 30, 2026) (training undergraduate students to be chemistry majors with a specialty in “advanc[ing] research on ethnic hair and skin”).

188. See *Non-Toxic Black Beauty Project*, CAMPAIGN FOR SAFE COSMS., <https://www.safecosmetics.org/black-beauty-project/> [<https://perma.cc/A4YD-LHTP>] (last visited Mar. 30, 2026) (providing a database for non-toxic black-owned beauty products and brands).

189. See *Hair Discrimination Frequently Asked Questions*, LEGAL DEF. FUND, <https://www.naacpldf.org/natural-hair-discrimination/> [<https://perma.cc/CL5B-L83U>] (last visited Mar. 30, 2026).

190. *Rogers v. Am. Airlines, Inc.*, 527 F. Supp. 229, 233 (S.D.N.Y. 1981).

to hear her challenge against the company.<sup>191</sup> It was not until 2021 that the United States Army finally removed restrictions on service members wearing certain hairstyles, including braids and locs.<sup>192</sup>

In recent years, there has been increased awareness of the hair discrimination that Black women experience. For instance, the proposed Creating a Respectful and Open World for Natural Hair (CROWN) Act aims to prohibit discrimination based on an individual's hair texture.<sup>193</sup> The CROWN Act was adopted from legal scholar, Professor Wendy Greene's 2008 article on hair discrimination.<sup>194</sup> The bill was introduced in the United States Congress, along with a lengthy "Findings and Sense of Congress" section, which acknowledges that "routinely, people of African descent are deprived of educational and employment opportunities because they are adorned with natural or protective hairstyles in which hair is tightly coiled or tightly curled, or worn in locs, cornrows, twists, braids, Bantu knots, or Afros."<sup>195</sup> Moreover, thirty states have enacted CROWN Act legislation.<sup>196</sup> These protections, and the accompanying awareness of the problem, may have given some women the permission needed to freely choose their hairstyle.

While these protections are noteworthy, hair discrimination has not been eliminated either in practice or in the law. For instance, the CROWN Act has repeatedly been introduced in Congress, but this legislation has failed to advance to create a

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191. See *Equal Emp. Opportunity Comm'n v. Catastrophe Mgmt. Sols.*, 852 F.3d 1018 (11th Cir. 2016), *cert. denied*, 584 U.S. 974 (2018); see also *U.S. Supreme Court Declines to Review Major Employment Discrimination Case Targeting Natural Black Hairstyles*, LEGAL DEF. FUND (May 14, 2018), <https://www.naacpldf.org/press-release/u-s-supreme-court-declines-review-major-employment-discrimination-case-targeting-natural-black-hairstyles/> [https://perma.cc/P24J-WPYA] (demonstrating LDF's disappointment in the denial of certiorari).

192. *Devon Suits, Army Announces New Grooming, Appearance Standards*, U.S. ARMY (Jan. 27, 2021), [https://www.army.mil/article/242536/army\\_announces\\_new\\_grooming\\_appearance\\_standards](https://www.army.mil/article/242536/army_announces_new_grooming_appearance_standards) [https://perma.cc/KX9F-NX3A].

193. H.R. 2116, 117th Cong. (2022).

194. See D. Wendy Greene, *Title VII: What's Hair (and Other Race-Based Characteristics) Got to Do with It*, 79 U. COLO. L. REV. 1355, 1355–56 (2008).

195. H.R. 2116 § 2(a)(4).

196. *About, THE CROWN ACT*, <https://www.thecrownact.com/about> [https://perma.cc/PA9H-CYTT] (last visited Mar. 30, 2026).

federal legal protection against hair discrimination.<sup>197</sup> Black women, compared to white women, are twice as likely to feel pressured to straighten their hair.<sup>198</sup> In 2023, a study found that “Black women’s hair is 2.5 times as likely as white women’s hair to be perceived as ‘unprofessional.’”<sup>199</sup> Therefore, women choosing to wear their hair naturally, today, are often still making this choice with the awareness that certain segments of the population will not accept or respect their decision. Subsequently, as throughout American history, Black women with natural hair continue to be excluded from certain economic and social opportunities.<sup>200</sup>

### C. Health and Wellness

Some women have ceased straightening their hair with chemical relaxers to make healthier lifestyle choices. Eighty percent of African American women have used chemical hair relaxers in their lifetime, and the first relaxer treatment typically occurs at an early age.<sup>201</sup> Chemical hair relaxers have been

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197. Watson Coleman, *Senator Booker Reintroduce CROWN Act to Outlaw Race-Based Hair Discrimination*, REPRESENTATIVE WATSON COLEMAN (Feb. 26, 2025), <https://watsoncoleman.house.gov/newsroom/press-releases/rep-watson-coleman-senator-booker-reintroduce-crown-act-to-outlaw-race-based-hair-discrimination#:~:text=The%20CROWN%20Act%20passed%20the,both%20Republican%20and%20Democratic%20governments.%E2%80%9D> [https://perma.cc/7NVA-Y5M4].

198. Karen Grigsby Bates, *New Evidence Shows There’s Still Bias Against Black Natural Hair*, NPR (Feb. 6, 2017, at 06:01 ET), <https://www.npr.org/sections/codeswitch/2017/02/06/512943035/new-evidence-shows-theres-still-bias-against-black-natural-hair> [https://perma.cc/8YK2-QMF5].

199. Jasmine Payne-Patterson, *The CROWN Act*, ECON. POL’Y INST. (July 26, 2023), <https://www.epi.org/publication/crown-act/> [https://perma.cc/K6CY-VFDH].

200. *See id.*; *see also* Marita Kinney, *Untangling Barriers: Embracing Ethnic Hair in the Workplace*, FORBES (Mar. 25, 2025, at 07:30 ET), <https://www.forbes.com/councils/forbescoachescouncil/2025/03/25/untangling-barriers-embracing-ethnic-hair-in-the-workplace/> [https://perma.cc/VVN7-M8GH].

201. Warren Swee, Karl C. Klontz & Lark A. Lambert, *A Nationwide Outbreak of Alopecia Associated with the Use of a Hair-Relaxing Formulation*, 136 ARCH. DERMATOL., 1104, 1104 (2000); *see* Linda Villarosa, *A Relaxer Reckoning*, N.Y. TIMES (June 13, 2024), <https://www.nytimes.com/2024/06/13/briefing/hair-relaxers-health-risks.html> [https://perma.cc/S9MJ-SR6W] (discussing hair relaxer advertisements targeted at children).

associated with increased risk of uterine cancer,<sup>202</sup> infertility,<sup>203</sup> uterine fibroids,<sup>204</sup> breast cancer,<sup>205</sup> early onset puberty,<sup>206</sup> asthma,<sup>207</sup> and alopecia.<sup>208</sup>

There has been an increasing number of claims against chemical relaxer manufacturers for misleading consumers with claims that products are made with natural ingredients. For example, the Rio Hair Naturalizer System was a hair straightener marketed to African American women through infomercials in the early 1990s, and the marketing claimed that the product was “chemical-free.”<sup>209</sup> The FDA received over 3,000 reports of adverse effects, and, in a rare move, eventually seized the product and had it destroyed as part of a settlement.<sup>210</sup> Ninety-five percent of the reporting consumers noted hair loss or breakage, and, among the reporters, three-fourths experienced over 40% hair loss.<sup>211</sup> Ultimately, approximately 40,000 plaintiffs were

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202. Che-Jung Chang, Katie M. O'Brien, Alexander P. Keil, Symielle A. Gaston, Chandra L. Jackson, Dale P. Sandler & Alexandra J. White, *Use of Straighteners and Other Hair Products and Incident Uterine Cancer*, 114 J. NAT'L CANCER INST. 1636, 1636 (2022); Kimberly A. Bertrand, Lauren Delp, Patricia F. Coogan, Yvette C. Cozier, Yolanda M. Lenzy, Lynn Rosenberg & Julie R. Palmer, *Hair Relaxer Use and Risk of Uterine Cancer in the Black Women's Health Study*, 239 ENV'T RSCH. 1, 1 (2023) (finding that uterine cancer was associated more frequently with postmenopausal women who used hair relaxers heavily compared to postmenopausal women who never used or used hair relaxers infrequently in a study following 45,000 Black women for two years).

203. Lauren A. Wise, Tanran R. Wang, Collette N. Ncube, Sharonda M. Lovett, Jasmine Abrams, Renee Boynton-Jarrett, Martha R. Koenig, Ruth J. Geller, Amelia K. Wesselink, Chad M. Coleman, Elizabeth E. Hatch & Tamarra James-Todd, *Use of Chemical Hair Straighteners and Fecundability in a North American Preconception Cohort*, 192 AM. J. EPIDEMIOLOGY 1066, 1066 (2023) [hereinafter *Fecundability*].

204. Bertrand et al., *supra* note 202, at 2.

205. Carolyn E. Eberle, Dale P. Sandler, Kyla W. Taylor & Alexandra J. White, *Hair Dye and Chemical Straightener Use and Breast Cancer Risk in a Large US Population of Black and White Women*, 147 INT'L J. CANCER 383, 383 (2020).

206. Chang et al., *supra* note 202, at 1639.

207. Jessica S. Helm, Marcia Nishioka, Julia Green Brody, Ruthann A. Rudel & Robin E. Dodson, *Measurement of Endocrine Disrupting and Asthma-Associated Chemicals in Hair Products Used by Black Women*, 165 ENV'T RSCH. 448, 448 (2018).

208. Swee et al., *supra* note 201, at 1104.

209. Paula Kurtzweil, *Hair Relaxers Destroyed After Consumers Complain*, 30 FDA CONSUMER, Mar. 1996, at 33, [https://quackwatch.org/wp-content/uploads/sites/33/quackwatch/case-watch/fda/fda\\_consumer/1996-march.pdf](https://quackwatch.org/wp-content/uploads/sites/33/quackwatch/case-watch/fda/fda_consumer/1996-march.pdf) [<https://perma.cc/HET7-ZYND>]; see also Imani Perry, *Buying White Beauty*, 12 CARDOZO J.L. & GENDER 579, 606 (2006) (describing the deceptive marketing tactics used to promote Rio hair relaxers).

210. Kurtzweil, *supra* note 209, at 33.

211. Swee et al., *supra* note 201, at 1104.

awarded \$4.5 million in a legal judgment.<sup>212</sup> Similarly, Just for Me was the first chemical relaxer marketed specifically to young girls beginning in 1990, and there is a generation of millennial Black women who have the product within their coming-of-age story.<sup>213</sup> According to class action litigation, Strength of Nature Global, LLC, the product manufacturer, claimed that the product included “natural hair milk, coconut milk, shea butter, vitamin e and sunflower oil,” but failed to disclose that it was actually made with endocrine-disrupting chemicals associated with neurological disabilities, cognitive deficits, hormone-related cancers, and other adverse health conditions.<sup>214</sup>

Hair relaxers frequently include formaldehyde, “phthalates and parabens and other endocrine disrupting chemicals.”<sup>215</sup> Formaldehyde is particularly concerning as it is a colorless gas which can cause nose, skin and eye irritation when released, and it is known to cause cancer when exposed in high levels.<sup>216</sup> Similarly, one of the main ingredients in chemical relaxers, sodium hydroxide—also known as lye—can damage the scalp in the short term and is associated with cancer and reproductive toxicity in the long term.<sup>217</sup> Following the disclosure that chronic

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212. *In re Rio Hair Naturalizer Prods. Liab. Litig.*, No. MDL 1055, 1996 WL 780512, at \*2–3 (E.D. Mich. Dec. 20, 1996).

213. See, e.g., Adama Munu, *Wait, Were the 90s Hair Relaxer Girls Natural All Along?*, REFINERY29 (Oct. 14, 2022, at 10:44 ET), <https://www.refinery29.com/en-us/black-models-hair-relaxer-box-natural-hair#:~:text=The%20fact%20that%20many%20of,wash%20seen%20around%20the%20world> [<https://perma.cc/L3E6-5VHV>] (describing the author’s adolescent relationship to chemical relaxer marketing).

214. Lucy Smith, *Just for Me Lawsuit*, MOTLEY RICE (Nov. 18, 2025), <https://www.motleyrice.com/toxic-exposure/hair-relaxer-lawsuit/just-for-me> [<https://perma.cc/SQ34-TV8R>].

215. Bertrand et al., *supra* note 202, at 1.

216. *Hair Smoothing Products That Release Formaldehyde When Heated*, U.S. FOOD & DRUG ADMIN. (Oct. 15, 2024), <https://www.fda.gov/cosmetics/cosmetic-products/hair-smoothing-products-release-formaldehyde-when-heated> [<https://perma.cc/HDS8-JYZE>]; U.S. FOOD & DRUG ADMIN., WHAT CONSUMERS SHOULD KNOW ABOUT HAIR SMOOTHING PRODUCTS AND FORMALDEHYDE 1 (2021), <https://www.fda.gov/media/146213/download?attachment> [<https://perma.cc/D6J7-PYEX>].

217. Carli D. Needle, Caitlin A. Kearney, Anna L. Brinks, Efe Kakpovbia, Jadesola Olayinka, Jerry Shapiro, Seth J. Orlow & Kristen I. Lo Sico, *Safety of Chemical Hair Relaxers: A Review Article*, JAAD REVS., Dec. 2024, at 51; Kimberly Bertrand, *25-Year-Long Study of Black Women Links Frequent Use of Lye-Based Hair Relaxers to a Higher Risk of Breast Cancer*, PBS (July 14, 2021, at 14:32 ET), <https://www.pbs.org/newshour/health/25-year-long-study-of-black-women-links->

conditions such as cancer and reproductive toxicity can result from the ongoing use of these products, beauty brand products shifted to marketing “no lye” relaxers.<sup>218</sup> “No lye” relaxers frequently “contain calcium, guanidine, or lithium hydroxide,” and these ingredients are still associated with reproductive toxicity and cancer.<sup>219</sup> People who have received hair relaxers commonly report a corrosive and unpleasant smell, and a burning sensation which can be painful.<sup>220</sup>

As this information has garnered mainstream attention, an increasing number of Black women have decided to forgo chemical relaxers.<sup>221</sup> For many, the decision to forgo relaxers has represented a decision to govern one’s own health.<sup>222</sup> Illustratively, after a study was published in 2012 linking chemical relaxers and cancer diagnoses, there was a significant decline in chemical relaxer sales.<sup>223</sup> “[A]ccording to market research firm Kline + Company,” there was a \$40 million reduction in chemical relaxer sales between 2011 to 2021.<sup>224</sup> Between 2013 and 2015, products for natural hair styles increased 26.8%.<sup>225</sup>

Beyond avoiding the adverse health outcomes associated with chemical relaxers, the new Natural Hair movement has

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frequent-use-of-lye-based-hair-relaxers-to-a-higher-risk-of-breast-cancer [https://perma.cc/2HEF-KA5M]; *Fecundability*, *supra* note 205, at 1076–77.

218. See Villarosa, *supra* note 201.

219. Needle et al., *supra* note 217, at 51.

220. See, e.g., Rachel Brazil, *Straight Talking*, CHEMISTRY WORLD (July 10, 2023), <https://www.chemistryworld.com/features/are-hair-relaxers-damaging-to-health/4017658.article> [https://perma.cc/X7Z8-7W6K].

221. See Wray, *supra* note 4.

222. See Rochelle Alleyne, *Black Women Seek Alternatives as Chemical Relaxers Are Linked to Severe Health Risks*, 10 WBNS (Mar. 12, 2025, at 17:59 ET), <https://www.10tv.com/article/news/health/damage-control/black-women-hair-care-alternatives/530-2399a6d0-4127-4814-a334-4229c181124f> [https://perma.cc/5AQS-3EF9].

223. Wray, *supra* note 4; see Wise et al., *Uterine Leiomyomata*, *supra* note 3, at 435–36 (discussing the potential links between hair relaxers and uterine leiomyomata in a study spanning 1997–2009).

224. Wray, *supra* note 4.

225. *Natural Hair Movement Drives Sales of Styling Products in US Black Haircare Market*, MINTEL (Dec. 17, 2015), [https://www.mintel.com/press-centre/natural-hair-movement-drives-sales-of-styling-products-in-us-black-haircare-market/#:~:text=As%20US%20Black%20consumers%20continue,reach%20\\$1.4%20billion%20by%202020](https://www.mintel.com/press-centre/natural-hair-movement-drives-sales-of-styling-products-in-us-black-haircare-market/#:~:text=As%20US%20Black%20consumers%20continue,reach%20$1.4%20billion%20by%202020) [https://perma.cc/4DE9-UFY7].

been further connected to wellness.<sup>226</sup> At its core, the Natural Hair movement of the 1960s and 70s was concerned with self-love, and subsequently, self-esteem, recognizing the mental health challenges associated with believing that one's natural appearances must be corrected.<sup>227</sup> The new Natural Hair movement has been more explicitly connected with wellness as influencers, authors and bloggers often highlight the harms associated with being discriminated against based on hair texture.<sup>228</sup> The Association of Black Psychologists deems hair discrimination an "aesthetic trauma,"<sup>229</sup> and psychologist Dr. Tammy Jolivette coined the framework "Post Traumatic Hair Syndrome."<sup>230</sup> Social media communities have also served as support venues for Black women who transition to natural hairstyles given family, romantic partners, and workplaces might not be readily accepting.<sup>231</sup> Beyond natural hair, the Black beauty salon has colloquially been considered a therapeutic space for a long time.<sup>232</sup> Scholar, psychologist, and cosmetologist Dr. Afiya Mblishaka, has created a training course designed to teach hairstylists how to provide basic mental health support to clients.<sup>233</sup>

Even still, there have been connections made between natural hair and spiritual well-being. Certain natural hairstyles, such as dreadlocks, have long held religious and spiritual

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226. See Alleyne, *supra* note 222.

227. See BYRD & THARPS, *supra* note 132, at 53, 57.

228. See Nkimbeng et al., *supra* note 136, at 408.

229. AFIYA MBILISHAKA, ASS'N OF BLACK PSYCHS, THE ASSOCIATION OF BLACK PSYCHOLOGISTS' STATEMENT ON THE NEED FOR HAIR ANTI-DISCRIMINATION LAWS 2 (2019), [https://abpsi.org/wp-content/uploads/2024/11/ABPsiStatementonHairDiscrimination\\_Aug2019-1.pdf](https://abpsi.org/wp-content/uploads/2024/11/ABPsiStatementonHairDiscrimination_Aug2019-1.pdf) [<https://perma.cc/2S8B-NCUH>]; see Nkimbeng et al., *supra* note 136, at 407–08.

230. See About "The Texture of Me", THE TEXTURE OF ME, <https://thetextureofme.com/about> [<https://perma.cc/KQ82-26WS>] (last visited Mar. 30, 2026).

231. See Danielle Davis, Afiya Mblishaka & Terrisia Templeton, *From About "Me" to About "We": Therapeutic Intentions of Black American Women's Natural Hair Blog*, 8 J. SOC. MEDIA SOC'Y 105, 106 (2019).

232. *Id.* at 109.

233. See *PsychoHairapy Certification Course*, <https://psychohairapycertification.thinkific.com/products/courses/whytocertify> [<https://perma.cc/N78S-TYQ2>] (last visited Mar. 30, 2026).

meanings among certain cultures.<sup>234</sup> For instance, the Rastafarians believe the dreadlock symbolizes a person's devotion to Jah, the Rastafarian name for God.<sup>235</sup> One theological scholar highlights several provisions in the Christian Bible related to hair: "The hair rituals in the Nazarite vow are relevant to the Black hair movement because it shows that natural hair can signify one's devotion to God, especially amidst other societal standards of beauty or rituals."<sup>236</sup>

In sum, the new Natural Hair movement builds upon the rich history that informed the Natural Hair movement of the 1960s and 1970s.<sup>237</sup> It is a movement that has evolved from being defined by one approach to politics or culture, and the movement today is about individual self-determination.<sup>238</sup> Black women who decide to wear their natural hair do so for different reasons. The impact of this decision, however, will differ not only based on the individual but also geographic location, social dynamics, and employment.<sup>239</sup> Even still, the collective impact has come to define a movement.

### III. HEALTH: BENEFITS AND CONCERNS

Given the significant role that hair care has held in Black American culture and history, it is not surprising that Black women spend more per capita on hair care products compared to other ethnicities.<sup>240</sup> Despite spending more, there are fewer

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234. See Mercy Langat, *Don't Touch My Hair: Examining the Natural Hair Movement Among Black Women*, 77 *ASBURY J.* 72, 83–84 (2022).

235. See Safiya Sinclair, *Why I Finally Cut My Dreadlocks*, *TIME* (Nov. 2, 2023, at 07:00 ET), <https://time.com/6330136/cutting-dreadlocks-rastafari-essay-safiya-sinclair/> [<https://perma.cc/6X5Y-U2L7>]; *Jah*, *MERRIAM-WEBSTER*, <https://www.merriam-webster.com/dictionary/Jah> [<https://perma.cc/5BTB-Q6PV>] (last visited Mar. 30, 2026).

236. Langat, *supra* note 234, at 86.

237. See BYRD & THARPS, *supra* note 132, at 53, 57.

238. *Id.* at 53–57, 67–68.

239. See Liz Richardson, *Black Women Revealed the Moment They Decided to "Go Natural" After Years of Relaxing Their Hair, and It Shows the Impact the Natural Hair Movement STILL Has to This Day*, *BUZZFEED* (Feb. 4, 2023), <https://www.buzzfeed.com/lizmrichardson/black-women-natural-hair-stories-why-did-you-go-natural> [<https://perma.cc/G2YV-L3JT>].

240. Yacine N. Sow, Amanda A. Onalaja-Underwood, Tiaranisha K. Jackson, Susan C. Taylor & Temitayo A. Ogunleye, *Minority Hair Tax: Pricing Bias in Haircare Products*, *INT'L J. WOMEN'S DERMATOLOGY*, June 2023, at 1 ("Black women spend 9 times more on ethnic hair

low hazard personal care products marketed to Black women compared to women as a whole.<sup>241</sup> This Part describes harms associated with hair care products frequently used to fashion and maintain natural and protective hairstyles. Specifically, this Part summarizes the Consumer Reports, studies previewed in the introduction, which found that human and synthetic braiding hair tested contained toxic chemicals. This Part also summarizes toxicity reports from the EWG Skin Deep database.<sup>242</sup> The Skin Deep database ranks products from “EWG Verified” on a scale from one (being the best) to ten (being the worst); products with a score of seven or higher are considered hazardous.<sup>243</sup> Additionally, this Part also describes the purpose for each hair product, including the hair health benefits making the choice of hair care products more than an aesthetic decision. Finally, this Part also discusses the potential to exacerbate existing health inequities and the barriers Black women already experience to advancing their health and wellness, including the limited research on the ingredients in hair care products, generally, and the intersection of systemic racism and cosmetics, specifically.

#### A. Natural Hair Care Products and Safety

Black women wearing natural hairstyles frequently avail themselves of a range of hair care products for various reasons. Braiding hairstyles might be used for a temporary protective

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products than non-Black consumers.”); *Nielsen Insights Reveal Black Dollars Matter: The Sales Impact of Black Consumers*, CISION (Feb. 20, 2018, at 12:00 ET), [https://www.prweb.com/releases/nielsen\\_insights\\_reveal\\_black\\_dollars\\_matter\\_the\\_sales\\_impact\\_of\\_black\\_consumers/prweb15226601.htm](https://www.prweb.com/releases/nielsen_insights_reveal_black_dollars_matter_the_sales_impact_of_black_consumers/prweb15226601.htm) [<https://perma.cc/S7DZ-JWKB>] (“Black shoppers spent \$473 million in total hair care.”).

241. See Boyd, *supra* note 10, at 294; Lillian White, *Carcinogenic Chemicals in Black Hair Products: A Product Liability Issue*, 51 S.U. L. REV. 305, 309 (2024); Kaley Beins, Alexa Friedman, Hong Lin & Kristian Edwards, *Higher Hazards Persist in Personal Care Products Marketed to Black Women, Report Reveals*, ENV’T WORKING GRP. (Feb. 11, 2025), <https://www.ewg.org/research/higher-hazards-persist-personal-care-products-marketed-black-women-report-reveals> [<https://perma.cc/8ZQM-QM9C>] (finding only 21% of the over 4,000 personal care products in the EWG Skin Deep data marketed to Black women were rated as low hazard).

242. See *Understanding Skin Deep Ratings*, ENV’T WORKING GRP., [https://www.ewg.org/skindeep/understanding\\_skin\\_deep\\_ratings/](https://www.ewg.org/skindeep/understanding_skin_deep_ratings/) [<https://perma.cc/G9FN-7L2N>] (last visited Mar. 30, 2026).

243. *Id.*

style; loc gels might be used to maintain dreadlocks and locs; curling creams can promote natural curls; and leave-in conditioners and hair oils are often used to moisturize Afro-textured hair.<sup>244</sup> Given beauty brands spend millions to understand their consumer base, some companies seem to understand that they are catering to a consumer base seeking a more natural or even toxin-free hair care routine.<sup>245</sup> Illustratively, manufacturers often use earth tones;<sup>246</sup> some packages replicate African and Jamaican flag colors, countries of origin for commonly used ingredients;<sup>247</sup> and still others, describe products as “natural,” or name the products after naturally occurring plants such as olive oil or shea butter.<sup>248</sup> Regardless of the label, there are natural hair care products with chemical ingredients known to be associated with, or suspected of being, carcinogenic, reproductively

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244. See Amy Elisa Jackson, *Protective Hairstyles 101*, PATTERN (Aug. 26, 2021), <https://patternbeauty.com/blogs/news/protective-hairstyles-101?srltid=AfmBOoqvdcLVc6rg1ix-onq2r8M0wZXu-HH2KlmscpIEdhTnYKuAy99-5> [https://perma.cc/58FM-3ZA7]; Devri Velazquez, *10 Loc Retwisting Products for Shine, Hold, and Length Retention*, BEAUTYCON (Nov. 27, 2024), <https://www.beautycon.com/article/6-loc-retwisting-products-for-shiny-hold-and-length-retention> [https://perma.cc/5U3Q-W4QC]; Shosh Stokes, *How to Use Curl Cream on Waves, Curls & Coils*, CURLSMITH, <https://curlsmith.com/blogs/product-guides/how-you-use-curl-cream> [https://perma.cc/RG66-8X62] (last visited Apr. 8, 2026); Adia Carter, *Natural Hair Products for Afro-Textured Hair*, LEAFSCORE (Apr. 24, 2025), <https://www.leafscore.com/ecofriendly-bath-products/natural-hair-products-for-afro-textured-hair-brands-ingredients-and-more/> [https://perma.cc/5KU7-D9KR].

245. ANANTIKA SHARMA, PREMIUM HAIR CARE MARKET SIZE, DEMAND & GROWTH REPORT BY 2033 (2025), <https://straitresearch.com/report/premium-hair-care-market> [https://perma.cc/A7YJ-AM7H].

246. Marissa Naclerio, *Sustainable Beauty*, UCONN OFF. OF SUSTAINABILITY (Sep. 11, 2020), <https://sustainability.uconn.edu/2020/09/11/sustainable-beauty/> [https://perma.cc/U3T3-L8M6].

247. See, e.g., *Jamaican Mango & Lime Love Your Locs, Locking Gel*, EWG'S SKIN DEEP (July 2024), [https://www.ewg.org/skindeep/products/8000404-Jamaican\\_Mango\\_Lime\\_Love\\_Your\\_Locs\\_Locking\\_Gel/](https://www.ewg.org/skindeep/products/8000404-Jamaican_Mango_Lime_Love_Your_Locs_Locking_Gel/) [https://perma.cc/A8LU-8PG9]; *Africa's Best Instant Oil Moisturizer*, EWG'S SKIN DEEP (May 2026), [https://www.ewg.org/skindeep/products/7738060-Africas\\_Best\\_Instant\\_Oil\\_Moisturizer/](https://www.ewg.org/skindeep/products/7738060-Africas_Best_Instant_Oil_Moisturizer/) [https://perma.cc/GJ4D-Z5UT].

248. See Dragus, *supra* note 36 at 897; see, e.g., *M's Philosophy*, OLIVE + M, <https://oliveandm.com/pages/philosophy> [https://perma.cc/K8EU-52RC] (last visited Mar. 30, 2026) (promoting Olive + M, an all-natural, olive oil skincare line); *Ethical Sourcing*, SHEAMOISTURE, <https://www.sheamoisture.com/us/en/ethical-sourcing.html> [https://perma.cc/HSS3-TMZZ] (last visited Mar. 30, 2026) (promoting Sheamoisture, an organic hair, deodorant, body, and skincare line).

toxic, endocrine disrupting, cancerous, irritant, or as posing other health risks.<sup>249</sup>

### 1. Braiding hair

Synthetic and human braiding hair can be used to achieve hundreds of braided styles, including cornrows, microbraids, and box braids,<sup>250</sup> as well as faux locs, twists, wigs and weaves.<sup>251</sup> Braided hairstyles are often described as “protective.”<sup>252</sup> A hairstylist might recommend that a woman wear a braiding style to avoid applying heat or other products to her hair, or to help foster hair growth and prevent damage.<sup>253</sup> Similar styles might be achieved with human hair, but synthetic hair is often more durable at retaining a hairstyle and requires lower maintenance.<sup>254</sup> This characteristic can make braiding styles attractive to a person going on vacation, enrolled in a swim or exercise routine, living in a hot or humid area or during the summer, or a person with a busy work schedule.<sup>255</sup> Even still,

249. See, e.g., Feldscher, *supra* note 14 (carcinogens); Bertrand et al., *supra* note 202, at 1, 4–5 (uterine cancer); *Fecundability*, *supra* note 203, at 1066–67 (reproductive toxin); Helm et al., *supra* note 207, at 448 (endocrine disrupting); Eberle et al., *supra* note 205, at 1, 8 (breast cancer).

250. See 25 *Stunning Braided Hairstyles for Natural Hair*, CAROL’S DAUGHTER, [https://carolsdaughter.com/blogs/beauty-blog/25-stunning-braided-hairstyles-for-natural-hair?srsId=AfmBOooEdRNp8a150FwQ0nmua2eG1\\_u\\_hneJjw19u5cHgq5EGf4ffSJe](https://carolsdaughter.com/blogs/beauty-blog/25-stunning-braided-hairstyles-for-natural-hair?srsId=AfmBOooEdRNp8a150FwQ0nmua2eG1_u_hneJjw19u5cHgq5EGf4ffSJe) [<https://perma.cc/W2H6-MUCL>] (last visited Mar. 31, 2026); Anisha Danielson, *Box Braids, Knotless Braids, Microbraids, or Cornrows: Which Is Right for You?*, CHILDISH MANE LLC (July 21, 2023), <https://www.childishmanellc.com/post/knotless-braids-box-braids-micro-braids-or-cornrows-which-is-right-for-you> [<https://perma.cc/SHH7-PZAA>].

251. *Here’s Your Ultimate Guide to Using Synthetic Hair*, CAROL’S DAUGHTER (Apr. 27, 2022), <https://carolsdaughter.com/blogs/beauty-blog/here-s-your-ultimate-guide-to-using-synthetic-hair?srsId=AfmBOooxj5TJsh6dglBZyE7iBC6Sn288BFTQWllIR4ZKtH4AtEAwZOQJ> [<https://perma.cc/Q5P2-F8TA>]; Kelle Salle, *Faux Locs Are the Perfect Protective Style—Here’s What You Need To Know*, BYRDIE (July 25, 2023, at 8:30 ET), <https://www.byrdie.com/faux-locs-7564626> [<https://perma.cc/P62N-PUKV>].

252. *Here’s Your Ultimate Guide to Using Synthetic Hair*, *supra* note 251.

253. *Id.*; *Myth Busters: Are Protective Styles Good for Your Hair Health?*, CECRED (Mar. 9, 2024), [https://cecred.com/blogs/cecred-space/myth-busters-are-protective-styles-good-for-your-hair-health?srsId=AfmBOoroIP\\_wp3sXdaeVMTbS9iFOcKzcsT7JjqdvlgOBKKeiOac\\_nbM](https://cecred.com/blogs/cecred-space/myth-busters-are-protective-styles-good-for-your-hair-health?srsId=AfmBOoroIP_wp3sXdaeVMTbS9iFOcKzcsT7JjqdvlgOBKKeiOac_nbM) [<https://perma.cc/5VKF-Y5JG>].

254. *Here’s Your Ultimate Guide to Using Synthetic Hair*, *supra* note 251.

255. See *Best Protective Braids for Hot Weather Summer 2025 Edition*, BRAIDING PALACE (July 20, 2025), <https://www.braidingpalace.com/blogs/best-protective-braids-for-hot-weather-summer-2025-edition> [<https://perma.cc/DJX9-T9TC>].

human hair is often considered a higher quality product, and this product is often more expensive.<sup>256</sup> Furthermore, depending on the hair style, a woman might pay a hair stylist hundreds of dollars for braid installations, decreasing the likelihood she will remove braids quickly.<sup>257</sup>

As introduced above, in 2025, Consumer Reports issued a study with an alarming headline: “Dangerous Chemicals Were Detected in 100% of the Braiding Hair We Tested.”<sup>258</sup> Consumer reports followed up this study in 2026 testing human hair and the results were even more concerning with the organization concluding “human hair was by far the worst offender.”<sup>259</sup> Originally, the nonprofit consumer organization tested ten top-selling synthetic braiding hair care products and found volatile organic compounds (VOCs), lead, carcinogens, and arsenic.<sup>260</sup> In the 2026 study, Consumer Reports tested 30 additional braiding hair products including more synthetic hair brands and human hair.<sup>261</sup> The human hair tested also included lead and VOCs.<sup>262</sup> Notably, many of the human hair products were marketed as “chemical-free.”

VOCs are human-made chemicals released as gases.<sup>263</sup> VOCs can impair the central nervous system or cause cancer.<sup>264</sup> VOCs can also be an irritant to the eyes, nose, and throat.<sup>265</sup>

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256. Nishita Naga, *Human Hair Vs. Synthetic Hair: Which Is Best?*, HAIR.COM <https://www.hair.com/human-hair-vs-synthetic-hair-wig.html> [https://perma.cc/68EQ-29BL] (last visited Apr. 14, 2026).

257. See *Here’s Your Ultimate Guide to Using Synthetic Hair*, *supra* note 254; *How Much Do Box Braids Cost?*, STYLE SEAT, <https://www.styleseat.com/blog/how-much-box-braids-cost/> [https://perma.cc/P3LR-EM2B] (last visited Mar. 31, 2026).

258. Jackson, *Dangerous Chemicals*, *supra* note 6.

259. Shalwah Evans, *We Found Heavy Metals and VOCs in CR’s Follow-Up Braiding Hair Investigation*, CONSUMER REPS. (Feb. 25, 2026), <https://www.consumerreports.org/health/wigs-hair-extensions/braiding-hair-heavy-metals-vocs-follow-up-test-a9549045438/> [https://perma.cc/FF7H-EC33].

260. Jackson, *Dangerous Chemicals*, *supra* note 6.

261. Evans, *supra* note 259.

262. *Id.*

263. *Id.*

264. *Volatile Organic Compounds*, AM. LUNG ASS’N (Jan. 13, 2026), <https://www.lung.org/clean-air/indoor-air/indoor-air-pollutants/volatile-organic-compounds> [https://perma.cc/BGR5-QE5Y].

265. *Id.*; Jackson, *Dangerous Chemicals*, *supra* note 6.

Acetone was the VOC with the highest levels detected in the synthetic braiding hair tested.<sup>266</sup> The CDC explains that “long-term acetone exposure” has been associated with “kidney, liver, and nerve damage; birth defects; and male infertility,” but it has mostly been studied in animals.<sup>267</sup> Consumer Reports explains VOCs can be particularly concerning in hair braiding because a finishing step often involves heating the braids, usually with boiling hot water, a lighter, or a flat iron.<sup>268</sup> This finishing step serves to bond the hair and prevent unraveling, but heat also releases VOCs into the air.<sup>269</sup> Consequently, the person receiving the braids and the hair stylist, as well as others within close proximity, could be inhaling the VOCs.<sup>270</sup>

Lead was found in most products tested.<sup>271</sup> As often cited, there is no safe amount of lead.<sup>272</sup> It has long been proven that lead exposure can damage the brain and immune system,<sup>273</sup> and lead can impair or delay brain development among children.<sup>274</sup> Benzene is a carcinogen known to cause leukemia, and it was found in three products.<sup>275</sup> There were also other chemicals the report refers to as “probable” carcinogens, including methylene

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266. *Id.*

267. AGENCY FOR TOXIC SUBSTANCES & DISEASE REGISTRY, ACETONE – TOXFAQS 1 (2022), <https://www.atsdr.cdc.gov/toxfaqs/tfacts21.pdf> [<https://perma.cc/RT5F-4NKD>].

268. Jackson, *Dangerous Chemicals*, *supra* note 6; Chrystal Thomas, *Carcinogenic Materials in Synthetic Braids: An Unrecognized Risk of Hair Care Products for Black Women*, 22 LANCET REG’L HEALTH, June 2023, at 1, 1.

269. Jackson, *Dangerous Chemicals*, *supra* note 6; Thomas, *supra* note 273, at 1.

270. See Donna Auguste & Shelly L. Miller, *Volatile Organic Compound Emissions from Heated Synthetic Hair: A Pilot Study*, ENV’T HEALTH INSIGHTS, Jan. 2020, at 1, 9 (finding that VOCs are released when synthetic hair is heated for sealing). The CDC also explains that beauty salon workers may be exposed to higher levels of acetone. ACETONE – TOXFAQS, *supra* note 267, at 1.

271. Jackson, *Dangerous Chemicals*, *supra* note 6; Evans, *supra* note 259.

272. *Lead Poisoning*, WORLD HEALTH ORG. (Sep. 27, 2024), <https://www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health> [<https://perma.cc/3P7N-37HK>]; see also Herbert L. Needleman, Charles Gunnoe, Alan Leviton, Robert Reed, Henry Peresie, Cornelius Maher & Peter Barrett, *Deficits in Psychologic and Classroom Performance of Children with Elevated Dentine Lead Levels*, 300 NEJM 689, 689 (1979) (presenting research challenging the scientific understanding at the time that there were levels of lead that were safe in children).

273. Karina Chibowska, Irena Baranowska-Bosiacka, Anna Falkowska, Izabela Gutowska, Marta Goschorska & Dariusz Chlubek, *Effect of Lead (Pb) on Inflammatory Processes in the Brain*, INT’L J. MOLECULAR SCI., Dec. 2016, at 1, 11–12.

274. Jackson, *Dangerous Chemicals*, *supra* note 6.

275. *Id.*

chloride, styrene, and 1,2-dichloroethane.<sup>276</sup> Still, other chemicals were described as “possible” carcinogens.<sup>277</sup> Arsenic can have a range of impact on a person’s physical health, including the cardiovascular, endocrine, nervous, and immune systems.<sup>278</sup>

Some women report immediate reactions. Evident adverse effects noted include swelling and redness in the scalp, and rashes or outbreaks on the face and neck.<sup>279</sup> However, the long-term impacts, particularly given the length of time a woman might wear braids, might be quickly appreciated. Epidemiologist and Professor Tamarra James-Todd explained that the chemicals are “sitting on your scalp and . . . can be dermally absorbed. . . . [They] . . . can be inhaled. Somebody touches their hair and they eat something, it’s hand-to-mouth, so it can enter the body that way as well.”<sup>280</sup> Even more, people selecting to use braiding hair often are not informed of these potential toxins and, instead, might be told that complications are personal to them.<sup>281</sup> For example, Carol’s Daughter, a leading hair care brand marketed to Black women, explains people might have a personal allergy to synthetic hair: “[d]epending on your skin type, the chemicals used to give synthetic hair the same luster, smoothness, and in some cases, the ability to withstand heat-styling, hot water, and styling product ingredients may cause a negative reaction.”<sup>282</sup> While it is true that some women might have an “allergy,” the notion that these reactions are a personal skin concern and not a product problem is likely echoed in hair salons around the nation.

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276. *Id.* The Consumer Reports describes a probable carcinogen as a chemical with “significant data (at least two to three sources) confirming this, although there might be some dispute in the scientific community.” *Id.*

277. *Id.* The Consumer Reports describes a possible carcinogen: “There might be only one set of data confirming this, or there is substantial dispute within the scientific community, or we might have data confirming that a similar chemical is carcinogenic.” *Id.*

278. *Arsenic*, NAT’L INST. FOR HEALTH; NAT’L INST. OF ENV’T HEALTH SERVS. (Mar. 06, 2026), <https://www.niehs.nih.gov/health/topics/agents/arsenic> [<https://perma.cc/Z9L7-YGAR>].

279. Jackson, *Dangerous Chemicals*, *supra* note 6.

280. *Id.*; see Tamarra James-Todd, HARVARD T.H. CHAN SCH. OF PUB. HEALTH, <https://hsph.harvard.edu/profile/tamarra-james-todd/> [<https://perma.cc/B8WL-QKDT>] (last visited Apr. 14, 2026).

281. See *Here’s Your Ultimate Guide to Using Synthetic Hair*, *supra* note 251.

282. *Id.*

Braids is one of the most popular hairstyles among Black women.<sup>283</sup> Braided hairstyles are also an attractive option for parents with young daughters.<sup>284</sup> The popularity among young people makes the potential harm even more alarming given lead's specific association with delays in children's brain development.<sup>285</sup> Further, braided hairstyles also have historical and traditional importance, given the centuries-old tradition of women of African descent adorning themselves with braided hairstyles.<sup>286</sup>

## 2. *Locking gel*

Locs, or dreadlocks, can be formed through multiple methods, including rolling the hair in the palm, twisting the hair with a comb or with two strands around one another, or using a special tool to interlock the hair.<sup>287</sup> Each method requires regular maintenance, typically every four to eight weeks, and this maintenance most often involves applying locking gel.<sup>288</sup> Locs are considered "permanent" until the style is either cut or

283. Thomas, *supra* note 273, at 1.

284. *The Benefits of Children's Hair Braiding for Busy Parents*, LOVE BRAIDING (Apr. 30, 2025), <https://hairsalon-md.com/blog/the-benefits-of-childrens-hair-braiding-for-busy-parents/> [<https://perma.cc/YX6Z-ZCDL>].

285. Jackson, *Dangerous Chemicals*, *supra* note 6.

286. See *6 Things Everyone Should Know About Black Hair History*, ODELE (Feb. 22, 2021), <https://odelebeauty.com/blogs/the-rinse/black-hair-history-facts> [<https://perma.cc/589L-M7J6>]; ILL. STATE BD. OF EDUC., BLACK HAIRSTYLES: HISTORICAL SIGNIFICANCE AND ETYMOLOGY 1, 15, <https://www.isbe.net/Documents/Historical-Significance-of-Black-Hairstyles.pdf> [<https://perma.cc/T7B2-WHMF>] (last visited Mar. 31, 2026).

287. *What Are Dreadlocks? How They Work and More*, STYLESEAT, <https://www.styleseat.com/blog/what-are-dreadlocks> [<https://perma.cc/9A8H-SUQ5>] (last visited Mar. 31, 2026); Taniel Smith, *Loc Maintenance Methods: Everything You Need to Know*, TRESSES LOCS & COILS, <https://tlcnaturalhair.com/loc-education/2025/7/17/loc-maintenance-methods-everything-you-need-to-know> [<https://perma.cc/S9BA-3HA8>] (last visited Mar. 31, 2026).

288. Taniel Smith, *Loc Maintenance 101: How to Keep Your Locs Healthy and Strong*, TRESSES LOCS & COILS, <https://tlcnaturalhair.com/loc-education/2025/6/14/loc-maintenance-101-how-to-keep-your-locs-healthy-and-strong> [<https://perma.cc/W6K4-V3J8>] (last visited Mar. 31, 2026); *The Ultimate Guide to Loc Gel: Styling and Care for Your Dreadlocks*, ISLAND TWIST (Mar. 29, 2024), [https://islandtwistshop.com/blogs/haircare/loc-gel?srltid=Afm-BOoolCL\\_VR3TPriwtFgF0BM0Kgjbo9cKtu1X5fmMSifsDOVIaRs-](https://islandtwistshop.com/blogs/haircare/loc-gel?srltid=Afm-BOoolCL_VR3TPriwtFgF0BM0Kgjbo9cKtu1X5fmMSifsDOVIaRs-) [<https://perma.cc/SYG6-YHKJ>].

combed out.<sup>289</sup> As a result, a person with locs may apply locking gel countless times throughout their lifetime or at least, throughout the lifetime of their locs.<sup>290</sup> Therefore, it is noteworthy that there are leading locking gels with ingredients that are known or suspected toxins. A search within the EWG Skin Deep Database found some locking gels with toxins labeled high in allergens and immunotoxicity, including propylparabens, lilyal, and unknown fragrances.<sup>291</sup>

Propylparabens are a paraben.<sup>292</sup> The CIR has concluded that propylparabens are safe, particularly in small amounts, and these amounts align with the typical usage in cosmetics.<sup>293</sup> The EU similarly limits the percentage that propylparabens can be used in cosmetics, and prohibits the ingredient in certain leave-on conditioners for children under the age of three years old.<sup>294</sup> Parabens, generally, are the most-widely used preservative in cosmetics, including hair care products.<sup>295</sup> The FDA has stated it is continuously monitoring parabens' safety, and the agency's website states that the FDA "do[es] not have

289. 9 *Dreadlocks Hairstyles to Complement Your Look*, L'OREAL (Nov. 16, 2020), <https://www.lorealparisusa.com/beauty-magazine/hair-style/hairstyle-trends/dreadlocks-hairstyles-ideas> [https://perma.cc/9MFV-E42F].

290. See *The Ultimate Guide to Loc Gel: Styling and Care for Your Dreadlocks*, supra note 288.

291. See, e.g., *Luster's Free Flow Wave Twist & Lock Gel*, EWG (Nov. 2022), [https://www.ewg.org/skindeep/products/1005310-Lusters\\_Free\\_Flow\\_Wave\\_Twist\\_Lock\\_Gel/](https://www.ewg.org/skindeep/products/1005310-Lusters_Free_Flow_Wave_Twist_Lock_Gel/) [https://perma.cc/CT2D-SQNG]; *Hawaiian Silky 14-in-1 Twist and Lock Gel*, EWG (June 2024), [https://www.ewg.org/skindeep/products/7080798-Hawaiian\\_Silky\\_14in1\\_Twist\\_and\\_Lock\\_Gel/](https://www.ewg.org/skindeep/products/7080798-Hawaiian_Silky_14in1_Twist_and_Lock_Gel/) [https://perma.cc/2EDR-27PX]; *Ouidad Moisture Lock Define & Shine Curl Styling Gel-Cream*, EWG (Mar. 2022), [https://www.ewg.org/skindeep/products/641564-Ouidad\\_Moisture\\_Lock\\_Define\\_Shine\\_Curl\\_Styling\\_GelCream/](https://www.ewg.org/skindeep/products/641564-Ouidad_Moisture_Lock_Define_Shine_Curl_Styling_GelCream/) [https://perma.cc/U72P-K9V7].

292. *Parabens in Cosmetics*, U.S. FOOD & DRUG ADMIN. (Nov. 18, 2025) <https://www.fda.gov/cosmetics/cosmetic-ingredients/parabens-cosmetics> [https://perma.cc/U95V-438].

293. Priya Cherian, Jinqiu Zhu, Wilma F. Bergfeld, Donald V. Belsito, Ronald A. Hill, Curtis D. Klaassen, Daniel C. Liebler, James G. Marks Jr., Ronald C. Shank, Thomas J. Slaga, Paul W. Snyder & Bart Heldreth, *Amended Safety Assessment of Parabens as Used in Cosmetics*, 39 INT'L J. TOXICOLOGY 5S, 44S, 50S, 90S (2020).

294. *Id.* at 13S; *Consumers: Commission Improves Safety of Cosmetics*, EUR. COMM'N (Sep. 25, 2014), [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_14\\_1051](https://ec.europa.eu/commission/presscorner/detail/en/ip_14_1051) [https://perma.cc/9AZH-4JC2].

295. *Parabens in Products*, DERMATOLOGY INST. OF BOSTON, <https://www.derm-boston.com/general/parabens-in-products/> [https://perma.cc/DM8T-D8DV] (last visited Mar. 31, 2026).

information showing that parabens[,] as . . . used in cosmetics[,] effect . . . human health.”<sup>296</sup> Even still, some researchers have raised concerns about parabens due to their ability to mimic estrogen and potentially disrupt hormones.<sup>297</sup> Researchers have documented associations between parabens and adverse birth, fertility, and fetal development outcomes, as well as the early onset of puberty, among females.<sup>298</sup> Related, in 2004, the Journal of Applied Toxicology published a study detecting parabens in breast tumors and questioned whether the chemical was linked to breast cancer.<sup>299</sup> Further, there are limited studies on the continued, ongoing usage of paraben exposure consistent with the typical usage of a person regularly maintaining locs with gel.<sup>300</sup> Multiple studies have concluded that women of color have higher paraben levels compared to white women.<sup>301</sup>

Lilial is an ingredient used to add fragrance to cosmetics.<sup>302</sup> Cosmetic products may still lawfully include lilial in products

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296. *Parabens in Cosmetics*, *supra* note 292. The FDA further explains among the questions for consideration are: “[D]o experimental findings with various parabens also happen in real life?” and “What are the hazards and risks of not using parabens? If we stop using parabens to protect cosmetics and consumers from harmful bacteria, are there safer alternatives to preservatives?” *Id.*

297. *Propylparaben*, EWG’S SKIN DEEP, <https://www.ewg.org/skindeep/ingredients/705335-PROPYLPARABEN/> [<https://perma.cc/U4WE-38C6>] (last visited Mar. 31, 2026); *see also Parabens*, BREAST CANCER PREVENTION PARTNERS, <https://www.bcpp.org/resource/parabens/> [<https://perma.cc/UY5B-NLPJ>] (last visited Mar. 31, 2026) (“Parabens are endocrine disruptors that can mimic estrogen in the body.”).

298. *Should You Worry About Parabens?*, CLEVELAND CLINIC (Nov. 20, 2024), <https://health.clevelandclinic.org/what-are-parabens> [<https://perma.cc/369K-ZT5H>].

299. *See* Philippa D. Darbre, Adil Aljarrah, William R. Miller, Nick G. Coldham, M.J. Sauer & G.S. Pope, *Concentrations of Parabens in Human Breast Tumors*, 24 J. APPLIED TOXICOLOGY 5, 7–8, 11 (2004).

300. *See, e.g.*, Joe M. Braun, Allan C. Just, Paige L. Williams, Kristen W. Smith, Antonia M. Calafat & Russ Hauser, *Personal Care Product Use and Urinary Phthalate Metabolite and Paraben Concentrations During Pregnancy Among Women from a Fertility Clinic*, 24 J. EXPOSURE SCI. & ENV’T EPIDEMIOLOGY 459, 459–61 (2014) (analyzing molar urinary phthalate metabolite and paraben concentrations within urine samples from pregnant women who utilized certain personal care products, including hair gel, within 24 hours of sampling). “Women included in the primary analyses were . . . predominately . . . Caucasian . . .” *Id.*

301. Tamarra M. James-Todd, Yu-Han Chiu & Ami R. Zota, *Racial/Ethnic Disparities in Environmental Endocrine Disrupting Chemicals and Women’s Reproductive Health Outcomes: Epidemiological Examples Across the Life Course*, 3 CURRENT EPIDEMIOLOGY REP. 161, 163 (2016) [hereinafter James-Todd et al., *Racial/Ethnic Disparities in Environmental Endocrine Disrupting Chemicals*].

302. *See Fragrance*, CAMPAIGN FOR SAFE COSMETICS, <https://www.safecosmetics.org/chemicals/fragrance> [<https://perma.cc/E2DF-M8EU>] (last visited Mar. 31, 2026).

sold in the United States.<sup>303</sup> The European Union enacted a ban on the use of this ingredient following studies, including from the EU Scientific Committee on Consumer Safety Research, linking the ingredient to reproductive toxicity.<sup>304</sup> Even more, many products, including locking gels, list “fragrance” as an ingredient, and this catch-all phrase could be an innocuous product or a known toxin.<sup>305</sup> Given that hair care products do not have to list the chemicals included within the fragrances, consumers and researchers alike have limited information available to distinguish between fragrances.<sup>306</sup>

Notably, there were locking gel products that did not fit into the high hazard category but might otherwise be concerning. For instance, there were loc gels EWG designated as “moderately” hazardous, including products with scores slightly below the high hazard threshold.<sup>307</sup> Even more, there are locking gels containing ingredients that have raised safety concerns but

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303. ABHISHEK GAUTAM, INST. OF ENV'T SCI AND RSCH. LTD., HEALTH RISK ASSESSMENT: BUTYLPHENYL METHYLPROPIONAL IN COSMETIC PRODUCTS 5 (2024), <https://www.phf-science.nz/media/2i1ijwp/esr-health-risk-assessment-butylphenyl-methylpropional-cosmetics.pdf> [<https://perma.cc/9Z2K-JXKN>] (“Butylphenyl methylpropional has been identified as one of the most common fragrance allergens present in cosmetic products . . . , but no restrictions or conditions for its use in cosmetic products were found.”).

304. See EUR. COMM'N, SCI. COMM. ON CONSUMER SAFETY, OPINION ON THE SAFETY OF BUTYLPHENYL METHYLPROPIONAL (P-BMHCA) IN COSMETIC PRODUCTS SUBMISSION II 6, 34–35 (2019), [https://health.ec.europa.eu/system/files/2021-08/sccs\\_o\\_213\\_0.pdf](https://health.ec.europa.eu/system/files/2021-08/sccs_o_213_0.pdf) [<https://perma.cc/GN62-9DP8>].

305. See Emily Spilman, *Lose the Lilia: European Union Ban Shows Risks of Chemical in Cosmetics*, EWG (Mar. 21, 2022), <https://www.ewg.org/news-insights/news/2022/03/lose-lilia-european-union-ban-shows-risks-chemical-cosmetics> [<https://perma.cc/37AY-MCCX>].

306. See *Fragrances in Cosmetics*, U.S. FOOD & DRUG ADMIN (Feb. 28, 2022), <https://www.fda.gov/cosmetics/cosmetic-ingredients/fragrances-cosmetics> [<https://perma.cc/85B6-MQUB>].

307. See *Understanding Skin Deep Ratings*, *supra* note 245 (labeling a product with a score of 6 a “moderate hazard”); see, e.g., *Jamaican Mango & Lime Love Your Locs*, *supra* note 247 (giving the product a score of “moderately hazardous” overall but a score of “high” for allergies and immunotoxicity concerns and “moderate” for cancer concerns); *Next Image Braid Locking Gel, Black Castor & Argan*, EWG'S SKIN DEEP (June 2024), [https://www.ewg.org/skindeep/products/1524748-Next\\_Image\\_Braid\\_Locking\\_Gel\\_Black\\_Castor\\_Argan/](https://www.ewg.org/skindeep/products/1524748-Next_Image_Braid_Locking_Gel_Black_Castor_Argan/) [<https://perma.cc/9NER-DAGG>] (giving the product a score of “moderately hazardous” overall but a score of “high” for allergies and immunotoxicity concerns and “moderate” for developmental and reproductive toxicity concerns).

without conclusive data on health harms.<sup>308</sup> Still, other products had limited data available.<sup>309</sup>

### 3. *Curl creams*

Curl creams are used to enhance people's natural curls, including hydrating the hair and reducing frizz.<sup>310</sup> Given that the Natural Hair movement has again embraced the Afro, curl creams have become popular among Black women to add luster and shine to their curls.<sup>311</sup> A person might use these creams daily.<sup>312</sup> A search within the EWG database found there were also some curl cream ingredients associated with allergies, immunotoxicity, reproductive toxicity, and developmental toxicity.<sup>313</sup> The chemicals found include methylisothiazolinone,

308. See, e.g., *Murray's Loc Lock Gel*, EWG'S SKIN DEEP (Nov. 2022), [https://www.ewg.org/skindeep/products/1005918-Murrays\\_Loc\\_Lock\\_Gel/](https://www.ewg.org/skindeep/products/1005918-Murrays_Loc_Lock_Gel/) [<https://perma.cc/6DET-5J9J>] (giving the product a lower score on the hazard scale but noting that it contains a flagged ingredient of "fragrance" without description, which includes risks such as "endocrine disruption," "non-reproductive organ system toxicity," and "irritation").

309. See, e.g., "*Locing Gel*" Search Results, EWG'S SKIN DEEP <https://www.ewg.org/skindeep/search/?search=Locing+gel> [<https://perma.cc/UZ2C-V7BU>] (last visited Mar. 31, 2026) (demonstrating that many products that appear within the search results note "limited" data on their ingredients).

310. Stokes, *supra* note 244.

311. See BYRD & THARPS, *supra* note 132, at 53.

312. See *How Often Should I Use the Moroccanoil Curl Defining Cream?*, THE LTL SHOP (Aug. 18, 2023), <https://theltlshop.com/blogs/news/how-often-should-i-use-the-moroccanoil-curl-defining-cream> [<https://perma.cc/X4GC-MNHG>] (advising that curl cream be applied daily for highly damaged or dry curls).

313. See, e.g., *Suave Professionals Captivating Curls Whipped Cream Mousse (2019 formulation)*, EWG'S SKIN DEEP (July 2019), [https://www.ewg.org/skindeep/products/846614-Suave\\_Professionals\\_Captivating\\_Curls\\_Whipped\\_Cream\\_Mousse\\_2019\\_formulation/](https://www.ewg.org/skindeep/products/846614-Suave_Professionals_Captivating_Curls_Whipped_Cream_Mousse_2019_formulation/) [<https://perma.cc/Q2JN-VSVC>] (giving the product a score of "high" for allergies and immunotoxicity and "low" for developmental and reproductive toxicity); *Ouidad Curl Quencher Hydrafusion Intense Curl Cream*, EWG'S SKIN DEEP (Mar. 2022), [https://www.ewg.org/skindeep/products/641552-Ouidad\\_Curl\\_Quencher\\_Hydrafusion\\_Intense\\_Curl\\_Cream/](https://www.ewg.org/skindeep/products/641552-Ouidad_Curl_Quencher_Hydrafusion_Intense_Curl_Cream/) [<https://perma.cc/5HYG-DVW4>] (giving the product a score of "high" for allergies and immunotoxicity and "moderate" for developmental and reproductive toxicity); *Bumble and Bumble. Bb. Curl Defining Cream*, EWG'S SKIN DEEP (Aug. 2021), [https://www.ewg.org/skindeep/products/965693-Bumble\\_and\\_Bumble\\_Bb\\_Curl\\_Defining\\_Cream/](https://www.ewg.org/skindeep/products/965693-Bumble_and_Bumble_Bb_Curl_Defining_Cream/) [<https://perma.cc/4JN9-E2X3>] (giving the product a score of "high" for allergies and immunotoxicity and "moderate" for developmental and reproductive toxicity); *Not Your Mother's, Hi-Moisture Curl Talk Whipped Cream, Light Hold*, EWG'S SKIN DEEP (Sep. 2023), [https://www.ewg.org/skindeep/products/1048788-Not\\_Your\\_Mothers\\_HiMoisture\\_Curl\\_Talk\\_Whipped\\_Cream\\_Light\\_Hold/](https://www.ewg.org/skindeep/products/1048788-Not_Your_Mothers_HiMoisture_Curl_Talk_Whipped_Cream_Light_Hold/) [<https://perma.cc/3C9R-33QD>] (giving the product a score of "high" for allergies and immunotoxicity and "low" for developmental and reproductive toxicity); *Redken Curvaceous for Curls*

hydrofluorocarbon 152A, and unidentified fragrances, as well as octinoxate, lilyal, butylparaben, and propylparaben found in other products and discussed within this section.<sup>314</sup>

Methylisothiazolinone (MI) is a preservative that has been associated with allergens.<sup>315</sup> The CIR has determined that the ingredient is safe below a certain level in products that will be rinsed off and safe for leave-on products when the product is “formulated to be non-sensitizing.”<sup>316</sup> This presents the question as to the ingredient’s safety in products such as curl creams and hair oils, where the ingredient might not be rinsed off until

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*Sculpt and Shine Cream Serum (2019 formulation)*, EWG’s SKIN DEEP (Jan. 2019), [https://www.ewg.org/skindeep/products/882441-Redken\\_Curvaceous\\_for\\_Curls\\_Sculpt\\_and\\_Shine\\_Cream\\_Serum\\_2019\\_formulation/](https://www.ewg.org/skindeep/products/882441-Redken_Curvaceous_for_Curls_Sculpt_and_Shine_Cream_Serum_2019_formulation/) [<https://perma.cc/8ARN-6R8D>] (giving the product a score of “high” for allergies and immunotoxicity and “low” for developmental and reproductive toxicity); *Keune Care Curl Control Defining Cream*, EWG’s SKIN DEEP (May 2024), [https://www.ewg.org/skindeep/products/1010075-Keune\\_CARE\\_CURL\\_CONTROL\\_DEFINING\\_CREAM/](https://www.ewg.org/skindeep/products/1010075-Keune_CARE_CURL_CONTROL_DEFINING_CREAM/) [<https://perma.cc/YNC3-D6B6>] (giving the product a score of “high” for allergies and immunotoxicity and “high” for developmental and reproductive toxicity); *TIGI Bed Head On the Rebound Curl Recall Cream (2019 formulation)*, EWG’s SKIN DEEP (Feb. 2019), [https://www.ewg.org/skindeep/products/883554-TIGI\\_Bed\\_Head\\_On\\_the\\_Rebound\\_Curl\\_Recall\\_Cream\\_2019\\_formulation/](https://www.ewg.org/skindeep/products/883554-TIGI_Bed_Head_On_the_Rebound_Curl_Recall_Cream_2019_formulation/) [<https://perma.cc/L9KC-CTEW>] (giving the product a score of “high” for allergies and immunotoxicity and “moderate” for developmental and reproductive toxicity).

314. See e.g., *Suave Professionals Captivating Curls Whipped Cream Mousse (2019 formulation)*, *supra* note 313 (containing methylisothiazolinone, hydrofluorocarbon 152A, and fragrance); *Ouidad Curl Quencher Hydrafusion Intense Curl Cream*, *supra* note 313 (containing fragrance and lilyal); *Bumble and Bumble. Bb. Curl Defining Cream*, *supra* note 313 (containing fragrance and octinoxate); *Not Your Mother’s, Hi-Moisture Curl Talk Whipped Cream, Light Hold*, *supra* note 313 (containing hydrofluorocarbon 152A and fragrance); *Redken Curvaceous for Curls Sculpt and Shine Cream Serum (2019 formulation)*, *supra* note 313 (containing fragrance); *Keune Care Curl Control Defining Cream*, *supra* note 313 (containing fragrance, butylparaben, and propylparaben); *TIGI Bed Head On the Rebound Curl Recall Cream (2019 formulation)*, *supra* note 313 (containing methylisothiazolinone and fragrance).

315. M.D. Lundov, T. Krongaard, T.L. Menné & J.D. Johansen, *Methylisothiazolinone Contact Allergy: A Review*, 165 BRIT. J. DERMATOLOGY 1178, 1178 (2011).

316. COSM. INGREDIENT REV., AMENDED SAFETY ASSESSMENT OF METHYLISOTHIAZOLINONE AS USED IN COSMETICS 10 (2020), <https://www.cir-safety.org/sites/default/files/MI092020FAR.pdf> [<https://perma.cc/68F9-XA38>]. “The Panel reviewed relevant animal and human data provided in this safety assessment, and data from the previously published safety assessments of Methylisothiazolinone, and concluded that Methylisothiazolinone is safe for use in rinse-off cosmetic products at concentrations up to 100 ppm (i.e. 0.01%) and safe in leave-on cosmetic products when they are formulated to be non-sensitizing, which may be determined based on a quantitative risk assessment (QRA) or similar methodology.” *Id.* at 2, 10.

days or weeks later after being applied daily.<sup>317</sup> MI is subject to additional use restrictions in other countries, including Europe and Canada.<sup>318</sup>

Hydrofluorocarbon 152A is a colorless, odorless gas, and it is within the category of PFAS.<sup>319</sup> The CIR issued a report as recently as 2022 concluding that this ingredient is safe in the “present practices of use and concentration described in this safety assessment.”<sup>320</sup> PFAS, generally, have raised health concerns because these chemicals break down slowly, and subsequently, they are commonly referred to as forever chemicals.<sup>321</sup> Moreover, there are peer reviewed studies that connect exposure to PFAS to reproductive toxicity, developmental delays, cancer, endocrine disruptions, immunotoxicity, and increased cholesterol levels.<sup>322</sup> While there are currently no federal regulations that prohibit PFAS’ intentional addition, the FDA states that they “will take appropriate action if safety concerns emerge.”<sup>323</sup>

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317. See *How Often Should I Use the Moroccan Oil Curl Defining Cream*, *supra* note 317 (explaining that curl cream should be applied daily for highly damaged or dry curls); SPRINGER, FUNDAMENTALS OF ETHNIC HAIR: THE DERMATOLOGIST’S PERSPECTIVE 74 (Crystal Aguh & Ginette A. Okoye eds., 2017) (recommending hair oil “daily as needed for styling.”).

318. In Europe and Canada, MI is not permitted in leave-on cosmetic products, and the permitted level of usage for rinse-off products is 15ppm, which is significantly lower than the 100ppm the US CIR recommends. *Methylisothiazolinone*, COSMILE EUR., <https://cosmileeurope.eu/inci/detail/9039/methylisothiazolinone/> [<https://perma.cc/N4BC-K53L>] (last visited Mar. 31, 2026); *Cosmetic Ingredient Hotlist*, GOV’T OF CAN., <https://www.canada.ca/en/health-canada/services/consumer-product-safety/cosmetics/cosmetic-ingredient-hotlist-prohibited-restricted-ingredients/hotlist.html#t2m> [<https://perma.cc/WN3V-4DY3>] (last visited Mar. 31, 2026).

319. COSM. INGREDIENT REV., SAFETY ASSESSMENT OF HYDROFLUOROCARBON 152A AS USED IN COSMETICS 2 (2017), <https://www.cir-safety.org/sites/default/files/hfc152042017FR.pdf> [<https://perma.cc/7FJC-Q5AG>].

320. Christina L. Burnett, Wilma F. Bergfeld, Donald V. Belsito, Ronald A. Hill, Curtis D. Klaassen, Daniel C. Liebler, James G. Marks, Jr., Ronald C. Shank, Thomas J. Slaga, Paul W. Snyder, Lillian J. Gill & Bart Heldreth, *Safety Assessment of Hydrofluorocarbon 152s as Used in Cosmetics*, 41 INT’L J. TOXICOLOGY 61, 61 (2022).

321. *Our Current Understanding of the Human Health and Environmental Risks of PFAS*, ENV’T PROT. AGENCY (Nov. 5, 2025), <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas> [<https://perma.cc/5MNL-2Z99>].

322. See Suzanne E. Fenton, Alan Ducatman, Alan Boobis, Jamie C. DeWitt, Christopher Lau, Carla Ng, James S. Smith & Stephen M. Roberts, *Per- and Polyfluoroalkyl Substance Toxicity and Human Health Review: Current State of Knowledge and Strategies for Informing Future Research*, 40 ENV’T TOXICOLOGY & CHEMISTRY 606, 606 (2021).

323. *FDA Finds Insufficient Data to Determine Safety of PFAS in Cosmetic Products*, U.S. FOOD & DRUG ADMIN. (Dec. 29, 2025), <https://www.fda.gov/news-events/press-announcements/fda->

#### 4. Hair oil

A concern of Afro-textured hair is dryness and brittleness that can lead to breakage.<sup>324</sup> For this reason, it is a common recommendation from dermatologists and cosmetologists for Black women to regularly, perhaps even daily, apply oil to their hair and scalp.<sup>325</sup> One study found the majority of Black American women reported using hair oil daily.<sup>326</sup>

A search within the EWG Skin Deep database found several hair oils without the hazardous designation; however, there were also several hair oils labeled as hazardous.<sup>327</sup> Notably, many hair oils are named for a naturally occurring plant.<sup>328</sup> For instance, the Organic Root Stimulator (ORS) Olive Oil is a popular hair brand marketed specifically to Black women with natural hair.<sup>329</sup> Yet, the ORS Olive Oil Incredibly Rich Oil Moisturizing Hair Lotion 2019 formulation received the highest

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finds-insufficient-data-determine-safety-pfas-cosmetic-products [https://perma.cc/GCH9-2T29].

324. See Noelle Desir, Iain Noel Encarnacion, Abdulaziz Hamid, Kara Turner, Oluwatomiola Oyasiji, Nada M. Elbuluk & Susan C. Taylor, *The First 20 Years of Skin of Color Dermatology: An Era of Advancements in Skin, Hair, and Nail Disorders*, 4 J. AM. ACAD. DERMATOLOGY 69, 71 (2025).

325. SPRINGER, *supra* note 317, at 74; Wong et al., *supra* note 3, at 96.

326. SPRINGER, *supra* note 317, at 74.

327. See, e.g., *Bronner Brothers Tropical Roots Stimulating Growth Oil for All Natural Hair Styles (2019 formulation)*, EWG'S SKIN DEEP (Feb. 2019), [https://www.ewg.org/skindeep/products/884023-Bronner\\_Brothers\\_Tropical\\_Roots\\_Stimulating\\_Growth\\_Oil\\_for\\_All\\_Natural\\_Hair\\_Styles\\_2019\\_formulation/](https://www.ewg.org/skindeep/products/884023-Bronner_Brothers_Tropical_Roots_Stimulating_Growth_Oil_for_All_Natural_Hair_Styles_2019_formulation/) [https://perma.cc/V6JQ-MPCM] (labeling the product as highly hazardous); *Creme Of Nature With Argan Oil Creamy Oil Moisturizing Hair Lotion (2019 formulation)*, EWG'S SKIN DEEP (May 2019), [https://www.ewg.org/skindeep/products/885484-Creme\\_Of\\_Nature\\_With\\_Argan\\_Oil\\_Creamy\\_Oil\\_Moisturizing\\_Hair\\_Lotion\\_2019\\_formulation/](https://www.ewg.org/skindeep/products/885484-Creme_Of_Nature_With_Argan_Oil_Creamy_Oil_Moisturizing_Hair_Lotion_2019_formulation/) [https://perma.cc/EKD2-4CEU] (labeling the product as highly hazardous); *Dove, Hair Therapy Nourishing Oil Care Detangler (2020 formulation)*, EWG'S SKIN DEEP (Jan. 2020), [https://www.ewg.org/skindeep/products/923710-Dove\\_Hair\\_Therapy\\_Nourishing\\_Oil\\_Care\\_Detangler\\_2020\\_formulation/](https://www.ewg.org/skindeep/products/923710-Dove_Hair_Therapy_Nourishing_Oil_Care_Detangler_2020_formulation/) [https://perma.cc/S96C-L3SC] (labeling the product as highly hazardous).

328. See e.g., "Hair Oil" Search Results, EWG'S SKIN DEEP, <https://www.ewg.org/skindeep/search/?search=hair+oil> [https://perma.cc/Y9U6-SD64] (last visited Mar. 24, 2026) (showing Cedarwood Repairing Hair Oil, Super Leaves Hair Oil, Moisture Seal-in Oil Lavendar, Hair Growth Oil, Rosemary + Castor Oil, and Skin & Hair Care Nourishing Carrott Seed Oil among the products listed as "hair oil").

329. See *Hair Education*, ORS HAIRCARE, <https://www.orshaircare.com/pages/hair-edu> [https://perma.cc/B9RS-HVMH] (last visited Mar. 24, 2026).

hazardous score of ten,<sup>330</sup> and the 2021 formulation received a score of eight.<sup>331</sup> Notably, the ORS Olive Oil for Girls, labeled as an “oil moisturizing hair and scalp lotion” and clearly marketed to children, received a score of eight.<sup>332</sup>

Ingredients in these hair oils were associated with allergies and immunotoxicity, high use restrictions, and cancer.<sup>333</sup> The ingredients included propylparaben and unidentified fragrances, discussed above, as well as cyclotetrasiloxane.<sup>334</sup>

Cyclotetrasiloxane, also known as D4, is a silicone that is used to make hair shiny and smooth.<sup>335</sup> The CIR has deemed this ingredient safe, but some scientists and advocates continue to raise concerns.<sup>336</sup> In particular, some scientists have stated that while the risk for short-term use is minimal, long-term use and potential buildup is a concern.<sup>337</sup> The European Union has

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330. See *Ors Olive Oil Incredibly Rich Oil Moisturizing Hair Lotion (2019 Formulation)*, EWG’s SKIN DEEP (Oct. 2019), [https://www.ewg.org/skindeep/products/887700-Ors\\_Olive\\_Oil\\_Incredibly\\_Rich\\_Oil\\_Moisturizing\\_Hair\\_Lotion\\_2019\\_formulation/](https://www.ewg.org/skindeep/products/887700-Ors_Olive_Oil_Incredibly_Rich_Oil_Moisturizing_Hair_Lotion_2019_formulation/) [https://perma.cc/5B87-PYMH].

331. See *Ors Incredibly Rich Oil Moisturizing Hair Lotion*, EWG’s SKIN DEEP (Aug. 2021), [https://www.ewg.org/skindeep/products/966418-Organic\\_Root\\_Stimulator\\_Ors\\_Incredibly\\_Rich\\_Oil\\_Moisturizing\\_Hair\\_Lotion/](https://www.ewg.org/skindeep/products/966418-Organic_Root_Stimulator_Ors_Incredibly_Rich_Oil_Moisturizing_Hair_Lotion/) [https://perma.cc/UCJ2-RLRH].

332. See *Organic Root Stimulator Ors Moisturizing Styling Lotion for Girls*, EWG’s SKIN DEEP (Aug. 2021), [https://www.ewg.org/skindeep/products/966404-Organic\\_Root\\_Stimulator\\_Ors\\_Moisturizing\\_Styling\\_Lotion\\_For\\_Girls/](https://www.ewg.org/skindeep/products/966404-Organic_Root_Stimulator_Ors_Moisturizing_Styling_Lotion_For_Girls/) [https://perma.cc/ASQ4-DH52].

333. *Bronner Brothers Tropical Roots Stimulating Growth Oil for All Natural Hair Styles (2019 formulation)*, *supra* note 327; *Creme of Nature with Argan Oil Creamy Oil Moisturizing Hair Lotion (2019 formulation)*, *supra* note 327; *Dove, Hair Therapy Nourishing Oil Care Detangler (2020 formulation)*, *supra* note 327.

334. *Bronner Brothers Tropical Roots Stimulating Growth Oil for All Natural Hair Styles (2019 formulation)*, *supra* note 327 (containing fragrance and cyclotetrasiloxane); *Creme of Nature with Argan Oil Creamy Oil Moisturizing Hair Lotion (2019 formulation)*, *supra* note 327 (containing propylparaben and fragrance); *Dove, Hair Therapy Nourishing Oil Care Detangler (2020 formulation)*, *supra* note 327 (containing propylparaben and fragrance).

335. See *Cyclotetrasiloxane (D4)*, SKINSAFE, <https://www.skinsafeproducts.com/ingredients/cyclotetrasiloxane-d4-0> [https://perma.cc/872Q-YLDT] (last visited Feb. 21, 2026).

336. See Wilbur Johnson Jr., Wilma F. Bergfeld, Donald V. Belsito, Ronald A. Hill, Curtis D. Klaassen, Daniel C. Liebler, James G. Marks Jr., Ronald C. Shank, Thomas J. Slaga, Paul W. Snyder & F. Alan Andersen, *Safety Assessment of Cyclotetrasiloxane, Cyclopentasiloxane, and Cyclohexasiloxane*, 30 INT’L J. TOXICOLOGY 149S, 149S (2011).

337. Annmarie Gianni, *Cyclotetrasiloxane in Hair and Skin Care: Benefits, Risks, and Alternatives*, ANNMARIE (May 4, 2025), <https://www.annmariegianni.com/ingredient-watch-list-cyclotetrasiloxane-the-hair-conditioner-that-may-harm-our-waterways/?srsltid=AfmBOop362K-0vVZD3cMmNCr6Z1jEJPeEuWwBTHLv8QNIN2hxHw4PtoI> [https://perma.cc/8FZN-4TZD].

banned this chemical from use in cosmetic products out of concern for hormone interference and fertility impairment.<sup>338</sup>

### 5. *Leave-in conditioners*

Similar to hair oils, leave-in conditioners might be used to moisturize a person's hair, reduce frizz, and reduce breakage.<sup>339</sup> Out of 528 products, the EWG search for leave-in conditioners yielded 35 products with a high hazardous score, 467 products with a moderate hazardous score, 22 products with a low hazardous score, and 4 EWG verified products.<sup>340</sup> The leave-in conditioners discussed within this Part contained many ingredients including unidentified fragrances, propylparaben, octinoxate, and lilyal, as well as stearylalkonium chloride.<sup>341</sup> The EWG has classified stearylalkonium chloride as being associated with allergies and immunotoxicity.<sup>342</sup> One study found that Black women are significantly more likely to be exposed to estrogen and endocrine-disrupting chemicals from products, such as leave-in conditioners.<sup>343</sup>

338. See *Cyclotetrasiloxane*, COSMILE EUROPE, <https://cosmileurope.eu/inci/detail/4042/cyclotetrasiloxane/> [<https://perma.cc/D6TJ-4Q2H>] (last visited Mar. 24, 2026); *Hazardous Chemicals Found in Cosmetic Products*, ECHA, <https://echa.europa.eu/-/hazardous-chemicals-found-in-cosmetic-products> [<https://perma.cc/WT44-NVGT>] (last visited Mar. 24, 2026); Gianni, *supra* note 337.

339. Compare Jenny Berg, *12 Best Scalp Oils to Nourish Hair at the Roots*, ALLURE (Jan. 1, 2025), <https://www.allure.com/story/best-scalp-oils> [<https://perma.cc/G2KC-SS4X>], with Paula Ludmann, *Dermatologists' Top Tips for Using Leave-In Conditioner*, AM. ACAD. OF DERMATOLOGY ASS'N (Mar. 26, 2024), <https://www.aad.org/public/everyday-care/hair-scalp-care/hair/leave-in-conditioner-tips> [<https://perma.cc/W2YF-WJGX>].

340. See "Leave in Conditioners" Search Results, EWG'S SKIN DEEP, <https://www.ewg.org/skindeep/search/?search=leave+in+conditioners&sort=reverse-score> [<https://perma.cc/WU6L-2559>] (using the search "leave in conditioners"; then sorting by "worst to best") (last visited Mar. 24, 2026); *Understanding Skin Deep Ratings*, *supra* note 243 (designating that a "product meets EWG's strictest standards for transparency and health").

341. See, e.g., *Sebastian Professional Potion 9 Leave-in Conditioner*, EWG'S SKIN DEEP (June 2023), [https://www.ewg.org/skindeep/products/1040324-Sebastian\\_Professional\\_POTION\\_9\\_LEAVEIN\\_CONDITIONER/](https://www.ewg.org/skindeep/products/1040324-Sebastian_Professional_POTION_9_LEAVEIN_CONDITIONER/) [<https://perma.cc/MC99-63ZY>] (containing fragrance, propylparaben, octinoxate, lilyal, and stearylalkonium chloride).

342. *Stearylalkonium Chloride*, EWG'S SKIN DEEP, [https://www.ewg.org/skindeep/ingredients/706279-STEARALKONIUM\\_CHLORIDE/](https://www.ewg.org/skindeep/ingredients/706279-STEARALKONIUM_CHLORIDE/) [<https://perma.cc/4ZLW-NVJU>] (last visited Mar. 27, 2026).

343. See Tamarra James-Todd, Ruby Senie & Mary Beth Terry, *Racial/Ethnic Differences in Hormonally-Active Hair Product Use: A Plausible Risk Factor for Health Disparities*, 14 J. IMMIGRANT

TABLE 1: SUMMARY OF NATURAL HAIR CARE PRODUCTS: USES, INGREDIENTS, AND KNOWN-RISKS

Product	Uses	Chemical Ingredients	Health Risks
Synthetic and Human Braiding Hair	<ul style="list-style-type: none"> <li>• Protective Styles</li> </ul>	<ul style="list-style-type: none"> <li>• Volatile Organic Compounds</li> <li>• Lead</li> <li>• Arsenic</li> </ul>	<ul style="list-style-type: none"> <li>• Irritants</li> <li>• Kidney, Liver and Nerve Damage</li> <li>• Birth Defects</li> <li>• Infertility</li> <li>• Cardiovascular, endocrine, nervous, and immune systems disruptors</li> </ul>
Locking Gel	<ul style="list-style-type: none"> <li>• Loc Maintenance</li> </ul>	<ul style="list-style-type: none"> <li>• Propylparaben</li> <li>• Lilial</li> <li>• Fragrances</li> </ul>	<ul style="list-style-type: none"> <li>• Allergies and Immunotoxicity</li> <li>• Reproductive Toxicity</li> </ul>
Curl Creams	<ul style="list-style-type: none"> <li>• Define and shape natural curls</li> <li>• Hydrate</li> </ul>	<ul style="list-style-type: none"> <li>• Butylparaben</li> <li>• Cyclomethicone</li> <li>• Hydrofluorocarbon 152A</li> <li>• Fragrances</li> <li>• Lilial</li> <li>• Methylisothiazolinone</li> <li>• Octinoxate</li> </ul>	<ul style="list-style-type: none"> <li>• Allergies and Immunotoxicity</li> <li>• Reproductive Toxicity</li> <li>• Developmental Toxicity</li> </ul>

MINORITY HEALTH 506, 506 (2012) [hereinafter James-Todd et al., *Racial/Ethnic Differences in Hormonally-Active Hair Product Use*].

	<ul style="list-style-type: none"> <li>• Reduce frizz</li> </ul>	<ul style="list-style-type: none"> <li>• Propylparaben</li> </ul>	
Hair Oil	<ul style="list-style-type: none"> <li>• Hydrate and prevent dryness</li> <li>• Prevent dandruff</li> <li>• Protects from heat damage</li> </ul>	<ul style="list-style-type: none"> <li>• Propylparaben</li> <li>• Lialial</li> <li>• Fragrances</li> <li>• Cyclotetrasiloxane</li> </ul>	<ul style="list-style-type: none"> <li>• Allergies</li> <li>• Immunotoxicity</li> <li>• Cancer</li> </ul>
Leave in Conditioners	<ul style="list-style-type: none"> <li>• Hydrate</li> <li>• Enhance curl definition and control frizz</li> <li>• Detangle</li> <li>• Repair damage and strengthen hair</li> </ul>	<ul style="list-style-type: none"> <li>• Propylparaben</li> <li>• Lialial</li> <li>• Fragrances</li> <li>• Octinoxate</li> <li>• Stearalkonium</li> </ul>	<ul style="list-style-type: none"> <li>• Allergies</li> <li>• Immunotoxicity</li> <li>• Developmental Toxicity Reproductive Toxicity</li> </ul>

To be clear, the inclusion of a chemical ingredient does not necessarily mean every woman exposed will experience associated health outcomes. Ingredients also do not pose the same

danger when included within every product.<sup>344</sup> However, some researchers, namely EWG and Consumer Reports, have raised concerns about each of the ingredients discussed here. Even more, it would not be readily apparent to a consumer the difference between the hazardous and nonhazardous products.<sup>345</sup>

### B. Exacerbating Health Inequities

The potential health risk associated with hair care products is even more concerning for Black women because this population is already exposed to more known toxins. Overall, Black women are exposed to higher concentrations of endocrine-disrupting chemicals, which block natural hormones and contribute to reproductive toxicity, infertility, early puberty, and uterine fibroids.<sup>346</sup> According to a study published in the *American Journal of Obstetrics and Gynecology*, “women of color have higher levels of certain endocrine-disrupting chemicals, such as phthalates and parabens, in their bodies compared with white women[,] and that these racial/ethnic differences are not explained by socioeconomic status.”<sup>347</sup> As a result of housing segregation, Black people are already more likely to be exposed to known toxins in the environment.<sup>348</sup> Black children are twice as likely to have asthma as non-Hispanic white children, and

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344. See *Ensuring the Safety of Cosmetics*, COSMETICS EUR., <https://cosmeticseurope.eu/key-actions/ensuring-the-safety-of-cosmetics/> [<https://perma.cc/9VQV-USSH>] (“Many substances have a toxic property (hazard), but are not necessarily poisonous in the way we use them.”) (last visited Mar. 27, 2026).

345. Sabrina Hartmann & Ursula Klaschka, *Interested Consumers’ Awareness of Harmful Chemicals in Everyday Products*, ENV’T SCI. EUR., Nov. 2017, at 1, 5, 9–10.

346. James-Todd et al., *Racial/Ethnic Disparities in Environmental Endocrine Disrupting Chemicals*, *supra* note 347, at 162, 164, 167; see also Jesse S. Helm, Marcia Nishioka, Julia Green Brody, Ruthann A. Rudel & Robin E. Dodson, *Measurement of Endocrine Disrupting and Asthma-Associated Chemicals in Hair Products Used by Black Women*, 165 ENV’T RSCH. 448, 454–55 (2018) (finding higher concentrations of endocrine-disrupting chemicals in hair products used by Black women).

347. Ami R. Zota & Bhavna Shamasunder, *The Environmental Injustice of Beauty: Framing Chemical Exposures from Beauty Products as a Health Disparities Concern*, 217 AM. J. OBSTETRICS & GYNECOLOGY 418, 418 (2017).

348. See Bongki Woo, Nicole Kravitz-Wirtz, Victoria Sass, Kyle Crowder, Samantha Teixeira & David T. Takeuchi, *Residential Segregation and Racial/Ethnic Disparities in Ambient Air Pollution*, 11 RACE & SOC. PROBS. 60, 65 (2018).

evidence suggests that environmental factors, such as pollution, contribute to this disparity.<sup>349</sup> Relatedly, a study conducted in the Boston-area found that retail stores in neighborhoods with higher percentages of residents of color and lower socioeconomic status were more likely to sell products with higher hazard scores within the EWG database.<sup>350</sup>

Hair care products could also be exacerbating or even contributing to existing health disparities among Black people. Notably, Black people already have worse health outcomes for most of the conditions discussed above as a potential adverse health outcome associated with the named ingredient.<sup>351</sup> For example, Black women are around three times more likely to die from pregnancy-related complications and disproportionately more likely to experience severe maternal morbidity compared to non-Hispanic white women.<sup>352</sup> Related, infant mortality rates among Black people are higher than the total population.<sup>353</sup>

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349. *Asthma and Black/African Americans*, U.S. DEP'T OF HEALTH & HUM. SERVS.: OFF. OF MINORITY HEALTH (Jan. 2026), <https://minorityhealth.hhs.gov/asthma-and-blackafrican-americans> [https://perma.cc/2DUP-RGDY]; see Chanda N. Holsey, Pamela Collins & Hatice S. Zahran, *Disparities in Asthma Care, Management, and Education Among Children with Asthma*, 20 CLINICAL PULMONARY MED. 172, 174–75 (2013); Veronica A. Wang, Rima Habre, Patrick H. Ryan, Brent A. Coull, Soma Datta, Heike Luttmann-Gibson, Jeff Blossom, Allan C. Just, Joel Schwartz, Jeff D. Yanosky, Izzuddin M. Aris, Aruna Chandran, Amii M. Kress, Carrie Breton, Shohreh F. Farzan, Carlos A. Camargo Jr., Donghai Liang, Assiamira Ferrera, Alicia K. Peterson, Jean M. Kerver, Catherine J. Karr, Leslie D. Leve, Dana Dabelea, Margaret R. Karagas, Deborah H. Bennett, Flory F. Nkoy, Judy Aschner, T. Michael O'Shea, Nathan Lothrop, Cindy T. McEvoy, Emily A. Knapp, Holly B. Schuh, Rachel L. Miller, Diane R. Gold & Antonella Zanobetti, *Disparities in the Association of Ambient Air Pollution with Childhood Asthma Incidence in the ECHO Consortium: A US-Wide Multi-Cohort Study*, ENV'T EPIDEMIOLOGY, Aug. 2025, at 1.

350. Marissa Chan, Shivani Parikh, Derek Shyr, Bhavna Shamasunder, Gary Adamkiewicz & Tamarra James-Todd, *Evaluating Neighborhood-Level Differences in Hair Product Safety by Environmental Working Group Ratings Among Retailers in Boston, Massachusetts*, ENV'T HEALTH PERSPS., Sep. 2023, at 097002-1.

351. See *supra* Section III.A. and accompanying text.

352. Latoya Hill, Alisha Rao, Samantha Artiga & Usha Ranji, *Racial Disparities in Maternal and Infant Health: Current Status and Key Issues*, KFF (Dec. 3, 2025), <https://www.kff.org/racial-equity-and-health-policy/issue-brief/racial-disparities-in-maternal-and-infant-health-current-status-and-efforts-to-address-them/> [https://perma.cc/L6EZ-XWSB]; Kylea L. Liese, Mulubrhan Mogos, Sarah Abboud, Karen Decocker, Abigail R. Koch & Stacie E. Geller, *Racial and Ethnic Disparities in Severe Maternal Morbidity in the United States*, 6 J. RACIAL & ETHNIC HEALTH DISPARITIES 790, 795 (2019).

353. *Infant Mortality and Black/African Americans*, U.S. DEP'T OF HEALTH & HUM. SERVS.: OFF. OF MINORITY HEALTH (Jan. 2026), <https://minorityhealth.hhs.gov/infant-health-and-mortality-and-blackafrican-americans> [https://perma.cc/WJ5E-CB2K].

Pregnant people and women of reproductive age are susceptible to toxic chemicals impacting their reproductive health.<sup>354</sup> Black women also have higher rates of infertility.<sup>355</sup> While Black women have similar rates of breast cancer compared to non-Hispanic white women, Black women are 40% more likely to die from breast cancer than non-Hispanic white women.<sup>356</sup> Unfortunately, Black women's mortality rate from uterine cancer is almost double the rate of non-Hispanic white women.<sup>357</sup> Black people are more likely to have severe kidney<sup>358</sup> and liver damage.<sup>359</sup> It is important to recognize these existing disparities, not only to recognize the heavy burden placed on certain impacted communities, but also to fully assess the contributing factors for health inequities.

The underinvestment in research related to chemical toxins and Black hair care products is consistent with the wider underinvestment in Black health and systemic racism.<sup>360</sup> Multiple hair

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354. Julia Varshavsky, Anna Smith, Aolin Wang, Elizabeth Hom, Monika Izano, Hongtai Huang, Amy Padula & Tracey J Woodruff, *Heightened Susceptibility: A Review of How Pregnancy and Chemical Exposures Influence Maternal Health*, 92 REPROD. TOXICOLOGY 14, 51 (2020).

355. LaTasha B. Craig, Jennifer D. Peck & Amanda E. Janitz, *The Prevalence of Infertility in American Indian/Alaska Natives and Other Racial/Ethnic Groups: National Survey of Family Growth*, 33 PAEDIATRIC & PERINATAL EPIDEMIOLOGY 119, 120, 123 (2019).

356. *Cancer and Black/African Americans*, U.S. DEP'T OF HEALTH & HUM. SERVS.: OFF. OF MINORITY HEALTH (Jan. 2026), <https://minorityhealth.hhs.gov/cancer-and-blackafrican-americans> [<https://perma.cc/TYJ9-2VH8>]; Sandy McDowell, *Breast Cancer Death Rates Are Highest for Black Women—Again*, AM. CANCER SOCIETY (Oct. 3, 2022), <https://www.cancer.org/research/acs-research-news/breast-cancer-death-rates-are-highest-for-black-women-again.html#:~:text=Black%20women%20still%20have%20a,access%20to%20screening%20and%20treatment.> [<https://perma.cc/YB66-G2SY>].

357. *Cancer and Black/African Americans*, *supra* note 356; Courtney M. Eakin, Tiffany Lai & Joshua G. Cohen, *Alarming Trends and Disparities in High-risk Endometrial Cancer*, 35 CURRENT OPINION IN OBSTETRICS & GYNECOLOGY 15, 15 (2023).

358. *Black Kidney Health Matters*, NAT'L KIDNEY FOUND., <https://www.kidney.org/black-kidney-health-matters> [<https://perma.cc/P6PM-VVXK>] (last visited Apr. 7, 2026).

359. See Jeremy Louissaint & Ashley Spann, *Disparities in Liver Disease in the African American Population*, AM. LIVER FOUND. (Nov. 4, 2021) <https://liverfoundation.org/resource-center/blog/disparities-in-liver-disease-in-the-african-american-population/> [<https://perma.cc/XLN9-T9QU>].

360. See Travis A. Hoppe, Aviva Litovitz, Kristine A. Willis, Rebecca A. Meseroll, Matthew J. Perkins, B. Ian Hutchins, Alison F. Davis, Michael S. Lauer, Hannah A. Valentine, James M. Anderson & George M. Santangelo, *Topic Choice Contributes to the Lower Rate of NIH Awards to African-American/Black Scientists*, SCI. ADVANCES, Oct. 2019, at 1; Wendy L. Macias-Konstantopoulos, Kimberly A. Collins, Rosemarie Diaz, Herbert C. Duber, Courtney D. Edwards, Antony P. Hsu, Megan L. Ranney, Ralph J. Riviello, Zachary S. Wettstein & Carolyn J. Sachs, *Race,*

care products searched on the EWG Skin Deep database found that there was limited data available.<sup>361</sup> Generally, there has been a dearth of studies specifically testing Black hair care products.<sup>362</sup> There have also been fewer studies focused on toxins and certain health conditions. For instance, the connection between exposure to toxins and fibroids warrants further study, according to scientific experts.<sup>363</sup> In response to the Consumer Reports study on synthetic braiding hair, Christina Chapman, an oncologist and professor of medicine, opined that there is a need for additional studies to examine the effects of racism and health and distinguish between the health impacts of hair care products and racism.<sup>364</sup>

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*Healthcare, and Health Disparities: A Critical Review and Recommendations for Advancing Health Equity*, 24 WESTERN J. EMERGENCY MED. 906, 907 (2023).

361. See Emily S. Barrett, Karolin Wadie, Kylie Getz, Patricia Greenberg, Taina Moore & Adana A. M. Llanos, *Evaluating Personal Care Product Use by Environmental Working Group Hazard Scores in Relation to Consumers' Sociodemographic Characteristics, Purchasing Behaviors, and Product Safety Perceptions*, 35 J. EXPOSURE SCI. & ENV'T EPIDEMIOLOGY 921, 921-23, 927 (2025) (linking self-reported personal care products to Environmental Working Group Skin Deep® hazard scores; reporting that only sixty-eight percent of products matched to Skin Deep®; and noting that a disproportionately higher number of hair products were not found in Skin Deep®, so "their hazard profiles are unknown").

362. See, e.g., Tamarra James-Todd, Lisa Connolly, Emma V. Preston, Marlee R. Quinn, Monika Plotan, Yuling Xie, Bharathi Gandhi & Shruthi Mahalingaiah, *Hormonal Activity in Commonly Used Black Hair Care Products: Evaluating Hormone Disruption as a Plausible Contribution to Health Disparities*, 31 J. EXPOSURE SCI. & ENV'T EPIDEMIOLOGY 476, 477, 480 (2021) ("Few studies have assessed the chemical content of Black hair products.").

363. Ami R. Zota & Eva L. Siegal, *Invited Perspective: Critical Needs for Advancing Beauty Justice*, 133 ENV'T HEALTH PERSP. 011302-1, 011302-2 (2025).

364. Jackson, *Dangerous Chemicals*, *supra* note 6.

#### IV. THE LAW: MOVEMENT POLITICS AND LEGAL DEVELOPMENTS

There has been robust legal scholarship documenting the influence of social movements on the law, and specifically, how these movements influence the law.<sup>365</sup> The Clean Beauty and Make America Healthy Again (MAHA) movements are the most influential, relevant movements with the stated goal of reducing exposure to toxic chemical ingredients.<sup>366</sup> While these stated goals align with the goals of the Natural Hair movement, there are significant differences within these movements that prevent them from working toward legal and policy reforms that would be beneficial to Black women seeking products for natural hairstyles.<sup>367</sup> These differences between the Clean Beauty and Natural Hair movements mean that legislation with the stated aim of promoting clean beauty will not necessarily benefit Black women without specific efforts to this end.<sup>368</sup>

MoCRA is the most significant reform of cosmetic regulations in eighty-five years.<sup>369</sup> However, the implementation of this new law relies significantly upon the discretion of the FDA.<sup>370</sup> Robert F. Kennedy Jr., as both the Secretary of HHS and chief architect of MAHA, could potentially diminish MoCRA's effectiveness, particularly in its potential to improve the burden

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365. Akbar et al., *supra* note 31.

366. See *Make America Healthy Again*, PRESIDENT'S TASK FORCE ON ENV'T HEALTH RISKS AND SAFETY RISKS TO CHILDREN, <https://ptfcehs.niehs.nih.gov/featured-activities/make-america-healthy-again> [<https://perma.cc/BMX7-BTJF>] (last visited Mar. 27, 2026); see also Andy Quinn, *Clean Beauty: A Movement Towards Safer Skincare*, DR. ANDY QUINN'S DERMATOLOGY BLOG, <https://quinndermatology.com/understanding-clean-beauty-movement/> [<https://perma.cc/2CVQ-DQLY>] (last visited Mar. 27, 2026) (committing to full ingredient and non-toxic choices).

367. McMillan Cottom, *supra* note 35.

368. *Id.*

369. *Modernization of Cosmetics Regulation Act of 2022 (MoCRA)*, U.S. FOOD & DRUG ADMIN. (Jan. 21, 2026), <https://www.fda.gov/cosmetics/cosmetics-laws-regulations/modernization-cosmetics-regulation-act-2022-mocra> [<https://perma.cc/EXL8-GYQT>].

370. See ROBBIE JOST, HELEN OGUNYANWO, JULIA CARBONETTI & MORIAH DENTON, MODERNIZATION OF COSMETICS REGULATION ACT WHITE PAPER 2 (2025), <https://www.crowell.com/a/web/uQiCa54ZGmZVSpGGzWMQtm/crowell-mocra-white-paper.pdf> [<https://perma.cc/E6HR-7U2E>].

of toxin exposure on Black women.<sup>371</sup> Beyond the Trump administration, and more specifically, Secretary Kennedy's tenure, it is worth examining the potential implications because there could again be a Secretary of Health with a similar or more extreme ideology. This demonstrates the need for Congress to more stringently regulate cosmetics in statute.

The Safer Beauty Package would represent a much more significant improvement in regulating cosmetics, but this bill has only been introduced in Congress.<sup>372</sup> The package is a suite of four bills that would amend the FDCA,<sup>373</sup> and one bill in the package, the Cosmetic Safety Protections for Communities of Color and Salon Workers, has an explicit health equity focus.<sup>374</sup> Even still, this bill package must be extended further to regulate the breadth of Black natural hair products. This Part discusses the enacted and proposed legal reforms, MoCRA and the Safer Beauty Package, and the relevant social movements that have influenced these policies, namely the MAHA and Clean Beauty movements.

#### A. MAHA and MoCRA

MoCRA, as Congress intended, represents a meaningful improvement in ensuring the safety of cosmetic users.<sup>375</sup> For the

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371. See, e.g., Travis Rodgers & Amy Edel, *RFK Jr. Signs Pullback of Asbestos Test Proposal for Talc Cosmetics*, ASBESTOS.COM (Dec. 4, 2025), <https://www.asbestos.com/news/2025/12/04/rfk-signs-withdrawal-of-asbestos-test-proposal-for-talc-cosmetics/#:~:text=The%20U.S.%20Food%20and%20Drug,asbestos%20fibers%20in%20products.%E2%80%8B> [https://perma.cc/7BFN-PMNY].

372. Press Release, Jan Schakowsky, U.S. Congresswoman, Schakowsky, Fletcher, Matsui, Pressley Introduce Safer Beauty Bill Package (July 17, 2025), <https://schakowsky.house.gov/media/press-releases/schakowsky-fletcher-matsui-pressley-introduce-safer-beauty-bill-package> [https://perma.cc/V72C-5J7A].

373. *Id.*; Toxic-Free Beauty Act of 2025, H.R. 4433, 119th Cong.; Cosmetic Supply Train Transparency Act of 2025, H.R. 4434, 119th Cong.; Cosmetic Hazardous Ingredient Right to Know Act of 2025, H.R. 4435, 119th Cong.; Cosmetic Safety for Communities of Color and Professional Salon Workers Act of 2025, H.R. 4436, 119th Cong.

374. Cosmetic Safety for Communities of Color and Professional Salon Workers Act of 2025, H.R. 4436, 119th Cong.

375. See Evelyn Woo, Grace Schuette & Atinuke Lardner, *A New Era of Cosmetics Safety Regulation*, REGUL. REV. (June 28, 2025), <https://www.theregreview.org/2025/06/28/seminar-a-new-era-of-cosmetics-safety-regulation/> [https://perma.cc/X4GE-QAKN].

first time, MoCRA requires manufacturers to substantiate cosmetic products' safety.<sup>376</sup> The statute defines "adequate substantiation of safety" as "tests or studies, research, analyses, or other evidence or information that is considered, among experts qualified by scientific training and experience to evaluate the safety of cosmetic products and their ingredients, sufficient to support a reasonable certainty that a cosmetic product is safe."<sup>377</sup> A product's safety continues to be based on "conditions of use as are customary or usual."<sup>378</sup>

MoCRA also requires a manufacturer to list each marketed cosmetic product with the FDA, including product ingredients,<sup>379</sup> and the product list must contain fragrance allergens.<sup>380</sup> Additionally, the FDA may request a list of fragrance ingredients or categories of ingredients if the FDA has "reasonable grounds to believe" that a fragrance or flavor ingredient "caused or contributed" to a serious adverse event.<sup>381</sup> The FDA is also required to specifically assess PFAS for safety and efficacy.<sup>382</sup>

MoCRA grants the FDA increased authority to respond to harmful effects. MoCRA requires cosmetic manufacturers to report to the FDA "serious adverse event[s]" within fifteen days.<sup>383</sup> The FDA can require a manufacturer to cease distribution of a product if the agency determines that the product is a "adulterated . . . or misbranded" product, and there is a reasonable probability that exposure would cause "adverse health consequences or death."<sup>384</sup> Previously, the FDA had to rely upon product manufacturers to report adverse events, and manufacturers could choose whether to voluntarily recall

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376. Modernization of Cosmetics Regulation Act of 2022, 21 U.S.C. § 364d(a).

377. 21 U.S.C. § 364d(c)(1).

378. *Id.* § 364d(c)(2).

379. *Id.* § 364c(c)(4)(A)(iv).

380. *Id.* § 364c(c)(4)(a)(iv).

381. *Id.* § 364a(f).

382. 21 U.S.C. § 364h; *see also* U.S. FOOD & DRUG ADMIN., REPORT ON THE USE OF PFAS IN COSMETIC PRODUCTS AND ASSOCIATED RISKS 26–27 (2025) (concluding that toxicological data for many PFAS used in cosmetics remain incomplete).

383. 21 U.S.C. § 364a(b)(1).

384. *Id.* § 364g(a).

products.<sup>385</sup> Even still, the FDA's ability to ensure harmful products are not introduced on the market remains limited without adequate research, including research focused on cosmetic usage consistent with Black women's usage.

Finally, cosmetic manufacturers and processors must register their manufacturing facilities with the FDA and renew this registration every two years.<sup>386</sup> The agency is permitted to suspend a facility's registration if the Secretary determines a cosmetic product manufactured or processed has a "reasonable probability of causing serious adverse health consequences or death to humans," and there is "a reasonable belief that other products manufactured or processed . . . may be similarly affected."<sup>387</sup> Notably, the Secretary can only suspend registration if other products manufactured could have the same defect. Cosmetic products manufactured or processed at a facility with a suspended registration cannot be sold.<sup>388</sup>

Overall, MoCRA leaves the FDA with a significant amount of discretion in implementing the law. MoCRA requires manufacturers to list on their label fragrance ingredients, but provides instructions to the FDA to define fragrance allergens through rulemaking.<sup>389</sup> Congress also requires the agency to promulgate a rule establishing "good manufacturing practices" for facilities that manufacture, distribute, or process cosmetics.<sup>390</sup> Before MoCRA, the FDA published Good Manufacturing Practices, but manufacturers were not required to comply with the recommendations.<sup>391</sup> MoCRA now requires manufacturers

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385. See *FDA Recall Policy for Cosmetics*, U.S. FOOD & DRUG ADMIN. (Dec. 18, 2025), <https://www.fda.gov/cosmetics/cosmetics-compliance-enforcement/fda-recall-policy-cosmetics> (explaining that MoCRA added FDA's authority to issue a mandatory recall).

386. 21 U.S.C. § 364c(a)(1)–(2).

387. *Id.* § 364c(f)(1).

388. *Id.* § 364c(f)(6).

389. *Id.* § 364e(b).

390. *Id.* § 364b(a).

391. See *Good Manufacturing Practice (GMP) Guidelines/Inspection Checklist for Cosmetics*, FDA, (Nov. 18, 2025), <https://www.fda.gov/cosmetics/cosmetics-guidance-documents/good-manufacturing-practice-gmp-guidelinesinspection-checklist-cosmetics> [<https://perma.cc/G572-6TPD>]. The FDA has, however, warned that a failure to adhere to the Good Manufacturing Practices could result in a product being considered adulterated or misbranded. *Inspection of*

to comply with implementing regulations.<sup>392</sup> The robustness of the FDA regulations on good manufacturing practices will determine the required manufacturer standards. Notably, in a provision which could undermine enforcement against hazardous products, the statute provides that the Secretary may exempt manufacturers from the adverse event reporting requirements if the Secretary determines that such exemption would have no significant adverse effect on public health.<sup>393</sup> Further, the FDA has enforcement discretion.<sup>394</sup> For instance, the FDA is permitted, but not required, to suspend a manufacturer's registration if there is a "reasonable probability" that a cosmetic product manufactured or processed could "caus[e] serious adverse health consequences."<sup>395</sup>

To date, the implementation of MoCRA has been slower than the timeline provided for in the statute. The statute requires HHS to promulgate rulemaking on fragrance before June 2024, and a final rule was required within six months of the public comment period closing.<sup>396</sup> The FDA has missed the statutory deadline, and at this writing, the rule has not been proposed.<sup>397</sup> The law required the Good Manufacturing Practices rule to be proposed before December 29, 2024.<sup>398</sup> This rule has also not been proposed.<sup>399</sup>

While MoCRA has significantly improved the bare minimum regulatory framework that has existed for more than eighty-five years, there is still significant room for improvement. Specifically, MoCRA relies heavily upon the FDA discretionary authority, and the case of Robert F. Kennedy as the Secretary over the agency demonstrates the limits and potential

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*Cosmetics*, U.S. FOOD & DRUG ADMIN. (Mar. 14, 2022), <https://www.fda.gov/cosmetics/cosmetics-compliance-enforcement/inspection-cosmetics> [<https://perma.cc/2FKR-5TAY>].

392. 21 U.S.C. § 364b(a).

393. *Id.* § 364a(c).

394. *Id.* § 364c(f)(1).

395. *See id.*

396. *Id.* § 364e(b).

397. *MoCRA Rulemaking Updates*, MARIE GALE (Oct. 1, 2025), <https://www.mariegale.com/MoCRA-update-fall-2025/> [<https://perma.cc/46HS-ZTAB>].

398. 21 U.S.C. § 364b(c).

399. *MoCRA Rulemaking Updates*, *supra* note 397.

harm from this model. Secretary Kennedy's governance of HHS, including the FDA, combines MAHA and MAGA (Make America Great Again), which are President Trump's stated policy priorities.<sup>400</sup> The MAHA movement was born after Robert F. Kennedy Jr. ended his bid to become President of the United States and endorsed Donald Trump for President.<sup>401</sup> The most prominent tenet of the MAHA platform has been the reduction and elimination of chemical toxin exposures, and the Secretary has made it clear that he views toxin exposure as a primary driver of chronic conditions.<sup>402</sup> For instance, Secretary Kennedy has noted that chemical toxins in foods should be eliminated, and he has pointed to the European Union's approach to food regulation as a model.<sup>403</sup> In fact, Secretary Kennedy's quest to reduce exposure to chemical toxins began decades before this endorsement, and his public career began as an environmental lawyer suing companies for toxin exposure.<sup>404</sup> While Secretary Kennedy does not have a robust public record on toxins in cosmetics, MAHA's overall goal for reducing toxin exposure seems consistent with a priority to reduce toxin exposure in cosmetics. However, the Trump administration's broader regulatory agenda, and Secretary Kennedy's implementation of the law, frustrates the potential for goal alignment that could be between clean beauty, MAHA, and the Natural Hair movement.

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400. See MAKE AMERICA HEALTHY AGAIN REPORT, *supra* note 34, at 5.

401. See Amanda Chu, *RFK Jr. Is Now a Wellness Guru for Republicans in Washington*, POLITICO, <https://www.politico.com/news/2026/02/01/rfk-wellness-republicans-maha-washington-dc-00757417> [<https://perma.cc/F3EF-XRSH>].

402. See Will Stone, *Trump Administration Actions Contradict MAHA Rhetoric on Toxic Chemicals*, NPR (June 18, 2025, at 05:00 ET), <https://www.npr.org/sections/shots-health-news/2025/06/18/nx-s1-5436960/maha-rfk-toxic-chemicals-trump-hhs-epa> [<https://perma.cc/3X9B-X8UE>].

403. Giuliana Grossi, *5 Health Policy Stances of Robert F. Kennedy Jr.*, AJMC (Nov. 15, 2024), <https://www.ajmc.com/view/5-health-policy-stances-of-robert-f-kennedy-jr> [<https://perma.cc/Z3CZ-CMSU>]; see also *Tracking Food Industry Pledges to Remove Petroleum Based Food Dyes*, U.S. FOOD & DRUG ADMIN. (Dec. 12, 2025), <https://www.fda.gov/food/color-additives-information-consumers/tracking-food-industry-pledges-remove-petroleum-based-food-dyes> [<https://perma.cc/S8QP-QDDL>] (noting the FDA's initiative to phase out petroleum-based food dyes).

404. Hiroko Tabuchi, *Kennedy Allies Against Pesticides: Environmentalists, Moms and Manly Men*, N.Y. TIMES (Oct. 27, 2025), <https://www.nytimes.com/2025/05/20/climate/atrazine-manosphere-maha-kennedy.html> [<https://perma.cc/US4W-V4Y6>].

As discussed throughout this Article, Black women face unique challenges resulting from the lack of cosmetic regulations, and the problem would best be addressed with a race-conscious approach to regulations. Contrarily, the Trump administration has systemically attacked, rescinded funding, and erased initiatives, grants, and programs under the guise of attacking diversity, equity, and inclusion.<sup>405</sup> More explicitly, the administration has undermined any effort, aimed at improving the health and well-being of people of color.<sup>406</sup>

President Trump has declared that the administration's policies will pursue the "gold standard" in science, but HHS's regulatory actions have not promoted this standard.<sup>407</sup> President Trump has proposed the largest cut in federal funding for science since World War II.<sup>408</sup> This includes the widespread cancellation of research grants.<sup>409</sup> Related, here, the NIH canceled, at least, four research grants examining PFAS chemicals in consumer products and the impacts on women's health, particularly during pregnancy and midlife, in its efforts to eliminate

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405. See Exec. Ord. No. 14173, 90 Fed. Reg. 8633 (Jan. 21, 2025); Aatish Bhatia, Amy Fan, Jonah Smith & Irena Hwang, *The U.S. Is Funding Fewer Grants in Every Area of Science and Medicine*, N.Y. TIMES (Dec. 2, 2025), <https://www.nytimes.com/interactive/2025/12/02/upshot/trump-science-funding-cuts.html> [<https://perma.cc/AY8D-4G8S>].

406. See *Trump on DEI and Anti-Discrimination Law*, ACLU, <https://www.aclu.org/trump-on-dei-and-anti-discrimination-law#intro> [<https://perma.cc/AU2F-6ESH>] (last visited Jan. 13, 2026). See also Latoya Hill, Samantha Artiga, Akash Pillai & Alisha Rao, *Elimination of Federal Diversity Initiatives: Implications for Racial Health Equity*, KFF (Mar. 21 2025), <https://www.kff.org/racial-equity-and-health-policy/elimination-of-federal-diversity-initiatives-implications-for-racial-health-equity/> [<https://perma.cc/72GK-Z4UY>] (concluding that the reversal of equity frameworks in federal agencies will "widen disparities in health and health care" by halting research into conditions that disproportionately affect Black women).

407. *Restoring Gold Standard Science*, WHITE HOUSE (May 23, 2025), <https://www.whitehouse.gov/presidential-actions/2025/05/restoring-gold-standard-science/> [<https://perma.cc/GD7Q-CFZ6>].

408. See OFF. OF MGMT. & BUDGET, MAJOR DISCRETIONARY FUNDING CHANGES 9–14 (2025), <https://www.whitehouse.gov/wp-content/uploads/2025/05/Fiscal-Year-2026-Discretionary-Budget-Request.pdf> [<https://perma.cc/543Z-5KYF>]; William J. Broad, *Historians See Autocratic Playbook in Trump's Attacks on Science*, N.Y. TIMES (Aug. 31, 2025), <https://www.nytimes.com/2025/08/31/science/trump-science-autocrats.html> [<https://perma.cc/FR6R-8HTS>]; Alessandra Zimmerman, *FY 2026 R&D Appropriations Dashboard*, AM. ASS'N FOR THE ADVANCEMENT OF SCL., <https://www.aaas.org/news/fy-2026-rd-appropriations-dashboard> [<https://perma.cc/7ER8-SFVG>] (last visited Mar. 29, 2026).

409. Stone, *supra* note 402.

funding for DEI research and programs.<sup>410</sup> Additionally, President Trump rescinded a Biden-era executive order that directed government agencies to prioritize underfunded women's health research,<sup>411</sup> and rescinded funding for research within the federal government and private sector aimed at equity.<sup>412</sup> These administrative decisions could worsen the dearth of research on chemical toxins in cosmetics. Even Secretary Kennedy's commitment to eliminating toxins is not always rooted in science.<sup>413</sup> Secretary Kennedy and some clean beauty influencers both preemptively fear processed chemicals, whereas natural chemicals are embraced. Sociologist and Professor Tracie McMillan Cottom remarks in reference to clean beauty influencers, "[i]f I close my eyes, they sound a lot like Kennedy. He is also very suspicious of multisyllabic scientific compound names."<sup>414</sup>

There is also a priority within the Trump administration to deregulate.<sup>415</sup> Cosmetics, including hair care products, are already largely not regulated; therefore, scaling back the already bare regulatory framework would essentially amount to not having a regulatory framework. Even without rescinding governing regulations, the Trump administration has placed on administrative leave and fired over 200,000 federal employees,

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410. *Id.*

411. Exec. Order No. 14148, 90 Fed. Reg. 1234 (Jan. 20, 2025) (entitled "Initial Rescissions of Harmful Executive Orders and Actions"). This order formally rescinded Exec. Order No. 14120, 89 Fed. Reg. 20275 (Mar. 18, 2024), which had established the White House Initiative on Women's Health Research and directed agencies to prioritize funding for conditions like menopause and endometriosis that are historically under-researched.

412. See Rob Stein, *Funding Cut For Landmark Study of Women's Health*, NPR (Apr. 23, 2025, at 18:00 ET), <https://www.npr.org/2025/04/23/nx-s1-5372892/womens-health-initiative-research-funding-gets-cut> [<https://perma.cc/6XRW-Q9XU>].

413. See Jess Steier, *Viewpoint: Natural ≠ Better — RFK, Jr.'s Recommended Ban on Artificial Dyes Provides the 'Illusion Of Meaningful Action' but No Health Benefits*, Genetic Literacy Project (June 5, 2025), <https://geneticliteracyproject.org/2025/06/05/viewpoint-natural-%E2%89%A0-better-rfk-jr-s-recommended-ban-on-artificial-dyes-provides-the-illusion-of-meaningful-action-but-no-health-benefits/> [<https://perma.cc/B393-7YW3>] (critiquing the "natural = healthy" narrative and noting that natural colorants can introduce new allergens and stability issues).

414. Cf. McMillan Cottom, *supra* note 35; MAKE AMERICA HEALTHY AGAIN REPORT, *supra* note 34, at 38–39.

415. Exec. Ord. No. 14192, 90 Fed. Reg. 9065 (Jan. 31, 2025).

amounting to a 20% reduction in the FDA's workforce.<sup>416</sup> Among the workers fired have been a disproportionate number of Black women, given that Black women's representation in the federal government is double their overall representation in the labor force.<sup>417</sup> Subsequently, the regulatory and policy development process will lose the lived experiences that these women brought into their positions. Even beyond the specific impacted offices, the Trump administration's systemic dismantling of the federal government, generally, and the specific hollowing of the FDA will have an outsized impact on the FDA's regulatory and enforcement ability.<sup>418</sup> The reduction in workforce has made it questionable whether the agency will be able to regulate the areas it had previously prioritized, and cosmetics were not prioritized even before reduction in workforce. Relatedly, the Trump administration has self-proclaimed that it is pro-business and the sizable cosmetics industry has a "financial incentive" to avoid manufacturing products that are truly toxin-free.<sup>419</sup>

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416. See *The Cost to Your Government*, P'SHIP FOR PUB. SERV., <https://ourpublicservice.org/federal-harms-tracker/cost-to-your-government/> [<https://perma.cc/P5G5-5S7J>] (last visited Apr. 8, 2026); Associated Press, *FDA to Rehire Fired Staffers Who Booked Inspection Trips*, STAT (May 1, 2025), <https://www.statnews.com/2025/05/01/fda-rehire-fired-staffers-who-booked-inspection-trips/> [<https://perma.cc/368X-BHC3>] (discussing that around 3500 federal employees have been fired from the FDA, representing a 20 percent reduction in the number of employees).

417. See, e.g., Erica L. Green, *In Trump's Federal Work Force Cuts, Black Women Are Among the Hardest Hit*, N.Y. TIMES (Aug. 31, 2025), <https://www.nytimes.com/2025/08/31/us/politics/trump-federal-work-force-black-women.html> [<https://perma.cc/C95F-92AQ>]; SARAH JAVAID, *ATTACKS ON THE FEDERAL WORKPLACE TARGET WOMEN AND PEOPLE OF COLOR* (2025), <https://nwlc.org/wp-content/uploads/2025/05/Federal-Workforce-FS-5.5.25v2.pdf> [<https://perma.cc/D4R7-QVZQ>] (finding that the federal agencies with the largest percentage of women of color experienced the largest number of job terminations).

418. See Avia M. Dunn, Maya P. Florence, Rachel Turow & Nicole L. Grimm, *Mass Layoffs at FDA Could Have the Greatest Impact on Products in Development*, SKADDEN (April 30, 2025), <https://www.skadden.com/insights/publications/2025/04/trump-administrations-first-100-days/mass-layoffs-at-fda> [<https://perma.cc/A5B4-XDS6>].

419. See Tom Perkins, *Trump Officials Quietly Move to Reverse Bans on Toxic 'Forever Chemicals*, THE GUARDIAN (Apr. 5, 2025, at 08:00 ET), <https://www.theguardian.com/environment/2025/apr/05/trump-pfas-toxic-forever-chemicals> [<https://perma.cc/728R-URZS>]; *The Impact of FDA Workforce Reductions and What It Means for the Food Safety Industry*, AIB INT'L (Oct. 25, 2025), <https://blog.aibinternational.com/the-impact-of-fda-workforce-reductions-and-what-it-means-for-the-food-safety-industry> [<https://perma.cc/8ZJL-LBQX>].

B. *The Clean Beauty Movement and the Safer Beauty Bill Package*

There has been a growing demand among consumers for cosmetics free from toxins.<sup>420</sup> The narrative that the FDA has allowed unregulated, unsafe products to proliferate in the market has become a growing public sentiment.<sup>421</sup> The clean beauty movement sits in connection to the overall shift in American society to promote wellness. Following the COVID-19 pandemic, Americans generally have sought more ownership over their health and wellness, resulting in increased sales for wellness products and services such as fitness trackers and intravenous therapies.<sup>422</sup> Notably, in 2020 alone, the sale of clean beauty products increased 11%—which is particularly noteworthy given overall beauty market sales decreased 14% at the same time.<sup>423</sup>

The clean beauty movement has been a consumer-driven effort that has demanded transparency and safer products. Specifically, the demand for clean beauty is a common topic on social media with TikTok and Instagram influencers developing massive followings from discussing chemicals in cosmetics and promoting products the influencers have deemed “clean.”<sup>424</sup> In this respect, the clean beauty movement, like the Natural Hair movement, has used social media as a dominant platform to communicate.<sup>425</sup> Even still, influencers often do not have

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420. See Dragus, *supra* note 36, at 899.

421. See *id.* at 902.

422. Jonquilyn Hill, *The Surprising Origins of the “Wellness” Boom*, VOX (Aug. 12, 2025, at 07:30 ET), <https://www.vox.com/explain-it-to-me/457697/wellness-health-spa-history-influencers> [<https://perma.cc/4RH6-SL82>].

423. Dragus, *supra* note 36, at 897–98.

424. See Stephanie Rand, *Gen Z Beauty Trends 2025: What’s Driving the Next Generation of US Beauty Consumers*, ATTEST (April 30, 2025), <https://www.askattest.com/blog/research/gen-z-beauty-trends> [<https://perma.cc/B4VP-3UVF>].

425. See Wing Sze Tang, *Has Clean Beauty Become a Misinformation Movement?*, ELLE (Jan. 8, 2020), <https://www.ellecanada.com/beauty/clean-beauty-misinformation-movement> [<https://perma.cc/LG5R-8BM2>].

expertise in cosmetics or chemical ingredients.<sup>426</sup> Subsequently, the products promoted might not be the toxin-free products consumers are seeking or even as safe as the influencer claims.<sup>427</sup>

Perhaps, ironically, the FDA's lack of regulations governing cosmetics has allowed product manufacturers to position themselves as the stakeholder concerned with consumers' health and well-being. The cosmetics industry has responded to consumer demands by offering an increasing number of products labeled as "non-toxic" and "natural," or even creating a "clean" beauty line.<sup>428</sup> Professor McMillan Cottom described the cosmetics industry's response to demands for clean beauty as "merging beauty, health and wellness into one big lifestyle market, where cosmetic products are marketed as natural parts of clean living."<sup>429</sup> Because there is no legal definition governing the terms clean, organic, or natural in cosmetics, women might find themselves subject to the same health risks associated with products not similarly labelled.<sup>430</sup> Illustratively, a federal district court ruled for Sephora where a consumer claimed she was misled when purchasing a product marketed under the store's "Clean at Sephora" brand.<sup>431</sup> The Court reasoned that a reasonable consumer would not interpret the clean label as noting that a product does not contain any potentially harmful ingredients because Sephora listed the product as clean and free from only certain ingredients.<sup>432</sup>

The clean beauty movement has largely centered wealthier, white women.<sup>433</sup> Products marketed as "clean," which are

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426. See Lissette Waugh, *The Rise of Beauty Science Influencers and How They Are Changing the Industry*, LMI (Nov. 19, 2020), <https://lmi.edu/blog/the-rise-of-beauty-science-influencers/> [<https://perma.cc/6M5C-A3XP>].

427. *Id.*; Tang, *supra* note 425.

428. See Grace C. Cheng, *Clean Beauty's Toxic Deception: The Impact of Changing Regulatory Schemes on the Cosmetics Industry*, 24 WAKE FOREST J. BUS. & INTELL. PROP. L. 218, 219 (2024).

429. McMillian Cottom, *supra* note 35.

430. Akpan, *supra* note 125, at 26.

431. *Finster v. Sephora USA Inc.*, No. 6:22-CV-1187, 2024 WL 1142014, at \*3 (N.D.N.Y. Mar. 15, 2024).

432. *Id.*

433. Akpan, *supra* note 125, at 26.

typically more expensive, are a luxury product, and luxury products are most often marketed to white people.<sup>434</sup> White middle and upper-class women have long dominated the demands for cosmetics reform.<sup>435</sup> The whiteness of clean beauty is notable given the quest for products made with natural ingredients has long been a central part of the Black community, as evidenced by the long history of individuals creating products at home with natural ingredients for sale or personal use.<sup>436</sup> Legal scholar Anietie Akpan notes that the clean beauty movement frequently promotes the use of ingredients natural to African and Latin countries and ingredients relied upon in Indigenous communities, such as shea butter and marula oil, without acknowledging the source of these ingredients.<sup>437</sup> The cosmetics industry invests in marketing to people of color, and Black women in particular as one of the largest consumer bases, but this has not translated into clean products marketed to Black women.<sup>438</sup> The Safer Beauty Bill Package has been touted as one of the most robust regulatory schemes proposed to advance clean beauty products.<sup>439</sup> The Toxic-Free Beauty Act would consider adulterated and ban from sale and distribution in the U.S. cosmetics containing 18 specific chemicals, including formaldehyde.<sup>440</sup> While this legislation represents a significant expansion of the current FDA ban list, the proposed list does

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434. *See id.* (emphasizing the “Goopification” of the “clean” product industry that has driven away diverse consumers with prohibitive pricing).

435. Boyd, *supra* note 10, at 286.

436. Akpan, *supra* note 125, at 26; *see generally* M. Fawzi Mahomoodally, *Traditional Medicines in Africa: An Appraisal of Ten Potent African Medicinal Plants*, EVIDENCE-BASED COMPLEMENTARY AND ALT. MED., (2013), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3866779/> [<https://perma.cc/5XN8-JRUB>] (articulating the uses and origins of 10 different plants native to Africa that are frequently used in contemporary wellness products).

437. Akpan, *supra* note 125, at 27 n.19.

438. Isabelle Carbajales, *Cosmetic Crisis: The Obsolete Regulatory Framework of the Ever-Evolving Cosmetic Industry*, 77 U. MIA. L. REV. 742, 762 (2022).

439. The Campaign for Safe Cosmetics describes itself as the leader in the “movement to make beauty and personal care products safer for all,” and it has been endorsed by over 175 organizations. *See About Us*, CAMPAIGN FOR SAFE COSMS., <https://www.safecosmetics.org/about/> [<https://perma.cc/9HP9-GZWY>] (last visited Mar. 29, 2026). The campaign has been advocating for the passage of the Safer Beauty Package. *Id.*

440. H.R. 4433, 119th Cong. § 2 (2025).

not capture the breadth of the many harmful and toxic ingredients.<sup>441</sup>

The legislative package has a focus on transparency. The Cosmetic Supply Chain Transparency Act of 2025 is aimed at improving transparency between cosmetic brand owners and the cosmetic or ingredient suppliers.<sup>442</sup> Specifically, the bill provides that a brand owner may request information on the cosmetic or ingredients functions and uses, the human health and environmental hazards, and “a full and complete listing of ingredients in fragrance or flavor formulations, preservative systems, or other ingredient formulations, including the presence of any allergens.”<sup>443</sup> The Cosmetic Hazardous Ingredient Right to Know Act focuses on transparency between the brand owner and the consumer.<sup>444</sup> This bill would require the brand owner to disclose certain information on the brand owner’s website and the packaging or label for a cosmetic, including a full listing of ingredients present in the cosmetic.<sup>445</sup> This legislation would go beyond the MoCRA requirement for manufacturers to fully disclose fragrance and flavor ingredients, and the legislation would require brand owners to ensure information is readily available on the ingredients that are carcinogenic, reproductively and developmentally toxic, skin irritants, and environmentally toxic.<sup>446</sup>

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441. In contrast to the United States, the European Union has already banned thousands of chemicals in beauty products and takes a much more proactive approach to addressing potentially harmful ingredients. See, e.g., Lucy Notarantonio, *Nail Polish Ban: What Other Beauty Products Are Banned in EU, Not US?*, NEWSWEEK (Sep. 4, 2025, at 11:25 ET), <https://www.newsweek.com/toxic-ingredients-beauty-products-cosmetics-banned-europe-vs-usa-2124366> [<https://perma.cc/77HM-HJFG>] (explaining the differences between U.S. and EU policies in the cosmetics industry).

442. H.R. 4434, 119th Cong. (2025).

443. H.R. 4434, 119th Cong. § 622 (2025).

444. See *Cosmetic Hazardous Ingredient Right to Know Act*, BREAST CANCER PREVENTION PARTNERS, <https://www.bcpp.org/resource/cosmetic-fragrance-and-flavor-ingredient-right-to-know-act/> [<https://perma.cc/L76A-H9QA>] (last visited Mar. 26, 2026).

445. Cosmetic Hazardous Ingredient Right to Know Act, H.R. 4435, 119th Cong. § 2 (2025).

446. *Id.*; Rachel Triesman, *Many Beauty Products Have Toxic Ingredients. Newly Proposed Bills Could Change That*, NPR WHYY (July 21, 2025, at 05:00 ET), <https://www.npr.org/2025/07/21/nx-s1-5472445/safer-beauty-bill-package-remove-toxic-chemicals-cosmetics> [<https://perma.cc/Q67Z-525S>].

Among the Safer Beauty Package, the Cosmetic Safety for Communities of Color and Professional Salon Workers Act of 2025 goes the furthest in applying a racial and gender analysis.<sup>447</sup> Specifically, the legislation would require HHS to either engage in or award grants for research on chemical ingredients commonly marketed to and used by women and girls of color, the adverse health effects resulting from exposure to unsafe chemicals, and interventions to reduce exposure or harm from unsafe chemicals.<sup>448</sup> Further, the legislation aims to require specific research to be conducted on professional products and the adverse health effects among hair, nail, and beauty salon workers, and requires the FDA to award grants focused on research related to safer cosmetics.<sup>449</sup> The legislation includes community-based participatory research among the research that could be funded, but it does not mandate that such research be funded.<sup>450</sup>

The legislation also envisions creating entities to address safety in cosmetics on an ongoing basis.<sup>451</sup> Specifically, the legislation instructs HHS to award a grant to create a National Resource Center on Beauty Justice and a National Resource Center on Salon Worker Health and Safety that focuses on addressing chemical exposures to people of color, immigrant populations, non-English speakers, the LGBTQIA community, and other underserved populations.<sup>452</sup> Finally, the legislation would require the FDA to issue regulations to establish safety standards governing synthetic braiding hair, and the legislation would

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447. See Triesman, *supra* note 446. Ayanna Pressley, a co-sponsor of H.R. 4436, pointed out that the bill would specifically address harms done to generations of Black women through unregulated cosmetics: “For decades, the beauty products marketed to Black women and girls and found in our salons have contained toxic, unregulated chemicals—leaving us to disproportionately suffer from increased incidences of cancer, respiratory issues, and adverse reproductive outcomes . . . . This isn’t a coincidence—this is exploitation.” Jan Schalowsky Press Release, *supra* note 372.

448. Cosmetic Safety for Communities of Color and Professional Salon Workers Act, H.R. 4436, 119th Cong. § 3 (2025).

449. *Id.* §§ 4, 5.

450. *Id.* § 4.

451. *Id.* §§ 6, 8.

452. *Id.* § 6.

require a warning label on synthetic braiding hair if a product does not meet the FDA's safety standards.<sup>453</sup> While this legislation would be a notable improvement to the status quo if enacted, there are still areas for improvement needed to truly advance racial equity among clean beauty products. This legislation would not ban products that do not meet safety standards. For example, the legislation would require manufacturers to place a warning label on synthetic braiding hair that does not meet certain safety standards.<sup>454</sup> By placing the burden on the consumer to heed a warning label on synthetic braids, H.R. 4436 reflects a "transparency-first" approach that still leaves the public at risk of cumulative exposure to lead and benzene. Related, the law would provide a much-needed investment into research and create an ongoing infrastructure to address adverse health outcomes among women of color, but it largely still defers to the FDA to address known hazardous products such as synthetic braiding hair.

Both MoCRA and the Safer Beauty Package represent significant efforts to overhaul the regulatory system, but Congress and the FDA must enact additional policies governing safety standards, enforcement, and research. Political goals and influential voices inform the process used to develop laws and policies, and subsequently, influence populations impacted by the regulatory scheme.<sup>455</sup> As in other scenarios, social movements have influenced cosmetic regulations and proposed regulation. Because Clean Beauty and MAHA have not adequately centered racial inequities, the associated reforms have also not adequately considered Black women's health. A racial and gender analysis must be applied to all cosmetic reforms.

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453. *Id.* § 9.

454. H.R. 4436, 119th Cong. § 9(d)(2) (2025) (establishing that while the FDA must set safety standards for synthetic hair, the primary enforcement mechanism for non-compliant products is a mandatory "warning label" rather than a categorical ban or recall). *Cf.* H.R. 4433, Toxic-Free Beauty Act of 2025, 119th Cong. § 3 (2025) (prohibiting the "intentional use" of eighteen specific hazardous chemicals in consumer cosmetics).

455. See generally Reva B. Siegel, *Constitutional Culture, Social Movement Conflict and Constitutional Change: The Case of the De Facto ERA*, 94 CAL. L. REV. 1323 (2006) (arguing that social movements play a critical role in the normative development of law and people's interpretation of the Constitution by influencing how policy is interpreted and applied to populations).

## V. POLICY RECOMMENDATIONS

To reduce or eliminate exposure to harmful chemical toxins, there must be a robust regulatory apparatus at multiple levels of government. Below are ten policy recommendations directed toward the federal government and Congress. Despite the critiques of MoCRA and the Safer Beauty Package above, these recommendations are not intended to be a substitute. These recommendations are intended to be an addition to the policy recommendations within that law and legislation. Specifically, Congress should pass the Safer Beauty Package but amend the existing legislation to include the policy recommendations listed below. The FDA should exercise its existing authorities, where statutorily granted, to improve cosmetic safety.

*1. Center Racial Health Equity in policy development*

Lawmakers must consider racial equity in the drafting, implementation, and enforcement of policies aimed at producing cleaner cosmetic beauty products. Political scientist and Professor Jamila Michener developed the Racial Equity and Policy (REAP) framework to aid policymakers in incorporating racial equity into policy development and assessment.<sup>456</sup> Particularly relevant here, Professor Michener explains the importance of “examining policy as a process, not only an output.”<sup>457</sup> Applying this concept to the regulation of natural hair care products, there is value in considering not only the disproportionate impact the failure to regulate beauty products has on Black women but also the racial inequities embedded into the processes that contributed to this harm.<sup>458</sup> It is only through

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456. Jamila Michener, *A Racial Equity Framework for Assessing Health Policy*, COMMONWEALTH FUND (Jan. 20, 2022), <https://www.commonwealthfund.org/publications/issue-briefs/2022/jan/racial-equity-framework-assessing-health-policy> [https://perma.cc/8CCF-NWAQ].

457. *Id.*

458. See Iris Meyers, *EWG report: Hazardous Chemicals in Cosmetics Disproportionately Impact Black Women*, EWG (Feb. 11, 2025), <https://www.ewg.org/news-insights/news-release/2025/02/ewg-report-hazardous-chemicals-cosmetics-disproportionately> [https://perma.cc/G9FN-7L2N].

understanding how racism becomes embedded into laws and policies that policymakers and advocates can effectively eradicate systemic racism.<sup>459</sup>

The REAP proposes a series of questions to law and policymakers aimed at understanding the disproportionate impact on certain communities, the levels of government where policy design or implementation has “benefited or burdened people” and communities of color’s ability to inform the policy development.<sup>460</sup> When the REAP framework is applied to the regulator process used to develop cosmetic regulations, the adverse health outcomes become less surprising: First, the failure to regulate cosmetics disproportionately impacts Black women.<sup>461</sup> Second, the failure to consider this disproportionate burden has been permitted because Congress and the FDA have failed to adequately regulate cosmetics and have instead allowed the cosmetics industry to self-police.<sup>462</sup> Finally, given that cosmetic regulation has relied upon self-policing, the opportunity for the public, including communities of color, to influence the law’s development has been less robust compared to the public’s ability to weigh in through an agency’s notice and comment rule-making and the public’s ability to petition Congress on proposed legislation.<sup>463</sup> Therefore, to disrupt racial inequities, law and policymakers must intentionally disrupt the processes currently causing the lopsided burden. This includes considering the priorities of the movements, as well as the other stakeholders, such as businesses, that influence the law.

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459. *See id.*

460. Michener, *supra* note 466.

461. Carbajales, *supra* note 438, at 785.

462. *Id.*

463. *Id.*

## 2. Increase FDA funding

The FDA has been underfunded for decades.<sup>464</sup> This has perpetuated the reliance upon the industry self-policing and, regardless of the regulatory scheme in law, implementation will be futile without adequate funding.<sup>465</sup> Congress should appropriate sufficient funding to allow the agency to engage in robust enforcement, investigations, and oversight. To rebuild from the Trump administration's efforts, Congress will need to not only provide funding at the levels where the agency should have been for decades but also account for the funding needed to rebuild following the reduction in personnel. Further, Congress should provide specific directions for a portion of the proposed increase budget to be directed to the Office of Cosmetics and Colors (OCAC), which regulates cosmetics.<sup>466</sup> Congress could also impose user fees on cosmetic manufacturers to improve the funding available. For comparison, various laws require drug, medical device, and tobacco manufacturers to pay user fees to the FDA.<sup>467</sup> These fees are used to supplement Congressional funding, and Congress also determines how user fees can be spent.<sup>468</sup> Congress should grant the FDA the authority to collect user fees and spend collected funding on the inspection, enforcement, and data collection of cosmetics.

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464. Judith Alphonse, Sireesha Bellam, Marlene Fernandez, Anishka Gilbert, Lauren Roper, Antonia Zapantis & Robert C. Speth, *The FDA Funding Crisis*, 30 J. PHARMACY & TECH. 57, 57 (2013).

465. See, e.g., David S. Hilzenrath, *Drug Money: FDA Depends on Industry Funding; Money Comes with "Strings Attached"*, POGO INVESTIGATES (Dec. 1, 2016), <https://www.pogo.org/investigates/fda-depends-on-industry-funding-money-comes-with-strings-attached> [<https://perma.cc/TAT4-JTVY>] (discussing FDA's reliance on User Fees for funding).

466. *Office of Cosmetic and Colors*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/about-fda/office-chief-scientist/office-cosmetics-and-colors> [<https://perma.cc/TX9P-NPPP>] (last visited Mar. 24, 2026).

467. *FDA: User Fees Explained*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/industry/fda-user-fee-programs/fda-user-fees-explained> [<https://perma.cc/P9G9-LBAR>] (last visited Mar. 24, 2026).

468. *Id.*; see also Campbell, *supra* note 55, at 72 (stating "user fees are therefore essential for supplementing the Agency's funds.").

### 3. *Award an FDA seal of approval for pre-market testing*

The FDA should require premarket approval for cosmetics containing potentially hazardous ingredients. The recent MoCRA requirements for manufacturers to submit to the FDA a list of ingredients could aid the agency in identifying the cosmetics that do not require premarket approval.<sup>469</sup> Additional research will still be needed to identify toxic ingredients. This requirement should not be applied to the products adhering to the proposed definition of clean and natural, discussed below, and subsequently, many small businesses would be exempt from this requirement.

Further, the FDA could award a seal of approval on cosmetics that have received FDA approval. Currently, no cosmetic may be labeled or advertised that it has been FDA-approved. Manufacturers who are not required to engage in premarket approval because the cosmetic does not contain harmful toxins would still be able to avail themselves of the label “clean,” “natural,” or “organic,” as discussed below. These manufacturers could voluntarily engage in such testing and receive the FDA-approved seal.

### 4. *Raise the standards for substantiating safety*

As discussed, MoCRA’s safety determination is based on the customary and usual use for a product.<sup>470</sup> Without adequate attention to racial equity, the safety consideration may not consider the customary and usual methods in which Black women use hair care products. In other words, if the FDA equates customary and usual with majority use, safety considerations will predominantly protect white women. Even more, because there is no requirement for a product to receive a certain standard of review or test before being sold on the market, the definition of “safe” remains imprecise and the ability of the agency to enforce safety standards is limited.

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469. See 21 U.S.C. § 364d(c)(1).

470. See discussion *supra* Section IV.A.

Congress and the FDA should consider chemical ingredients' ability to cause chronic conditions and other long-term effects. As discussed within this Article, Black women frequently have ongoing and regular usage of cosmetics, allowing chemical ingredients to accumulate. Safety determinations should consider this long-term usage. Even more, seemingly minor reactions should be assessed to determine whether these reactions are indicative of a more serious concern, particularly with long-term use. For instance, hair relaxers are known for immediately burning a person's scalp, which would not be considered a serious adverse event, but several studies have associated long-term use of relaxers with cancer.<sup>471</sup> MoCRA limits the Secretary's ability to consider a cosmetic product or ingredient unsafe "because it can cause minor and transient reactions to minor and transient skin irritations in some users."<sup>472</sup> Congress should amend this language to allow the Secretary to regulate even when reactions are seemingly minor in the immediate.

In implementing MoCRA, the FDA should exercise its existing authority to promulgate Good Manufacturing Regulations that instruct manufacturers on the required data assessments to ensure a product's safety.<sup>473</sup> The Personal Care Products Safety Act is legislation that has been introduced in Congress, and certain provisions were included in MOCRA.<sup>474</sup> A Personal Care Products Safety Act provision that was not enacted would have required the FDA to include within the Good Manufacturing Guidelines instructions on assessing a product's safety, including considering "[t]he probable cumulative and aggregate effect in humans of relevant exposure to the ingredient or non-functional constituent or to any chemically or pharmacologically related substances from use in cosmetics or other

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471. Needle, *supra* note 219 at 51.

472. *Id.*

473. See *Guidance for Industry: Cosmetic Good Manufacturing Practices*, U.S. FOOD & DRUG ADMIN. (2013), <https://www.fda.gov/media/86366/download?attachment> [<https://perma.cc/AC9D-UCS7>].

474. Personal Care Products Safety Act, S. 2100, 117th Cong. (2021).

products. . . .”<sup>475</sup> The FDA can adopt this standard within the Good Manufacturer regulations that MoCRA requires it to promulgate and requires manufacturers to adhere to.

5. *Develop a clear definition of clean, organic and natural*

Congress should define the terms clean, organic, and natural for cosmetics. Specifically, the FDCA should be amended to explicitly consider a cosmetic misbranded that uses these terms inconsistent with this proposed standard. The U.S. Department of Agriculture (USDA) defines the term “organic” for agricultural ingredients, and the USDA will certify that a cosmetic containing agricultural ingredients is organic if the product meets the agency’s definition.<sup>476</sup> However, cosmetic manufacturers can use the terms clean, natural, or organic without meeting any standards specific to cosmetics because the FDA does not define the term.<sup>477</sup> The FDA should develop a definition for organic that is tailored to cosmetics. These definitions should be consistent with consumers’ ordinary understanding of the term, as outlined above,<sup>478</sup> and at a minimum, the definitions should not include ingredients listed on the negative list or other chemical ingredients known or suspected of being toxins.

6. *Create a robust negative list*

The FDA should create an expansive negative list prohibiting and restricting chemical ingredients known, or where seriously suspected, to cause chronic conditions or serious long-term adverse health outcomes. In the United States, California has the most robust regulatory scheme. The state’s Toxic-Free

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475. *Id.* § 607(h)(2)(B) (2021); *see also* Wallack, *supra* note 72, at 334 (explaining that legislative amendment might be needed to give the FDA authority to deem these substances unsafe).

476. *Organic: About the Organic Standards*, USDA <https://www.ams.usda.gov/grades-standards/organic-standards> [<https://perma.cc/LJ75-7FKJ>] (last visited Mar. 24, 2026); *Cosmetics, Body Care, and Personal Care Products*, USDA, <https://www.ams.usda.gov/grades-standards/cosmetics-body-care-and-personal-care-products> [<https://perma.cc/BG27-RNDZ>] (last visited Mar. 24, 2026).

477. Wallack, *supra* note 71, at 321.

478. *See supra* note 117.

Cosmetics Act bans twenty-six chemicals, and the PFAS-Free Cosmetics Act bans per- and polyfluorinated (PFAS).<sup>479</sup> California also requires manufacturers to report if a cosmetic sold in the state contains a chemical known to cause cancer or reproductive toxicity.<sup>480</sup> Congress and the FDA could use state laws as models for a negative list.

While there is a need to improve research for cosmetics, Congress or the FDA could most immediately ban ingredients and products with known toxic profiles. For example, the FDA has proposed a ban on formaldehydes and formaldehyde-releasing chemicals, but this ban has not been finalized.<sup>481</sup> This ban should be finalized given the well-documented research on the harms of formaldehyde. Washington bans lead in cosmetics above a certain level given the known hazards associated with this ingredient having a more robust list in statute limits the FDA's discretion in banning an ingredient, particularly given the agency's apparent hesitancy, or lack of urgency, in banning ingredients generally, and, more specifically, ingredients that have harmed Black women for decades, such as formaldehyde.<sup>482</sup> The FDA should still be permitted to go beyond the statutory list, which would afford the agency flexibility to evolve with the science. Even still, on balance, a list would be beneficial to the public's health, particularly if the FDA is not prohibited in its ability to add ingredients to the negative list.

### 7. *Require Manufacturers to Report All Adverse Effects*

Congress should require manufacturers to report all adverse effects, not only the most serious events and outcomes. As explained, MoCRA only requires a product manufacturer to

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479. See Toxic-Free Cosmetics Act, CAL. CIV. CODE § 108980 (West 2020) (banning twenty-four ingredients including formaldehyde and mercury). See also PFAS-Free Beauty Act, CAL. HEALTH & SAFETY CODE § 108981 (West 2022) (prohibiting all "intentionally added" PFAS). Most recently, Assemb. B. 496, 2023–2024 Leg., Reg. Sess. (Cal. 2023) (enacted) expanded this list to include twenty-six additional chemicals (such as lily aldehyde and vinyl acetate), with enforcement set to begin January 1, 2027.

480. S.B. 484, 2025–2026 Leg., Reg. Sess. § 111792(a) (Cal. 2025).

481. See Office of Info. & Reg. Affs., *supra* note 96 and accompanying text.

482. See *supra* note 94–96 and accompanying text.

report serious adverse reactions,<sup>483</sup> and the statute defines “serious adverse events” as “an adverse event that [] results in “(i) death; (ii) a life-threatening experience; (iii) inpatient hospitalization; (iv) a persistent or significant disability or incapacity; (v) a congenital anomaly or birth defect; (vi) an infection; (vii) or significant disfigurement[.]”<sup>484</sup> This limits the FDA’s ability to penalize manufacturers for harming consumers beyond the most severe circumstances.

8. *Impose labeling requirements on professional-use only products*

Professional-use only products should be required to adhere to labeling standards consistent with the labeling standards for consumer products. As explained above, the FPLA regulates cosmetic labels, but it only applies to consumer products.<sup>485</sup> This means those products labeled “Professional Use Only” and sold directly to cosmetologists do not have to meet FPLA requirements.<sup>486</sup> This problem is further compounded given that the FDA does not consistently define “Professional.”<sup>487</sup> This is particularly relevant for the Natural Hair movement, given the frequency with which Black women report visiting a professional hair salon.<sup>488</sup>

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483. See discussion *supra* Section IV.A.

484. 21 U.S.C. § 364(5).

485. Fair Packaging and Labeling Act, 15 U.S.C. § 1451 (“Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is . . . the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.”).

486. 21 U.S.C. § 364(c)(2) (“A cosmetic product introduced into interstate commerce and intended to be used only by a professional shall bear a label that . . . contains a clear and prominent statement that the product shall be administered or used only by licensed professionals . . .”).

487. The Fair Packaging and Labeling Act does not define the word “professional.” 15 U.S.C. § 1459.

488. See *Beauty Knowledge is Power*, OTC BEAUTY MAG. (May 1, 2023), <https://otcbeautymagazine.com/beauty-knowledge-is-power/> [<https://perma.cc/BD5F-HCQ2>] (“The survey also shows that African American women go to hair salons the most frequently: 6% of Black women go to a hair salon once a week (double the consumer average) . . . [c]ollectively, these figures show that African American women are spending more money in hair salons, visiting hair salons more regularly, and spending more time at hair salon appointments . . .”).

9. *Require inspections regularly*

The FDA has long had the authority to inspect manufacturer facilities to ensure products are not adulterated or misbranded, and the agency has the authority to research a product or ingredients to address safety concerns.<sup>489</sup> Unlike other FDA categories regulated, there is no statutorily created timeline for the FDA to inspect manufacturer facilities.<sup>490</sup> Before MoCRA, the FDA's ability to inspect facilities was inhibited given manufacturers were not required to register with the FDA.<sup>491</sup> MoCRA requires manufacturers to register, as explained above, which would ease the agency's ability to perform regular inspections. Congress should establish a regular schedule for the FDA to inspect manufacturing facilities.

10. *Invest in research and education*

There needs to be more research conducted on cosmetics, particularly Black hair care products. The CIR often cannot reach a conclusion on a product's safety because there are insufficient data and information to reach a conclusion. This lack of research has allowed manufacturers to engage in the proverbial ostrich defense—burying their heads in the sand to not know about the harms. In addition to the research requirements found in the Safer Beauty Package, namely, investing specific research into cosmetic products used by women of color and the adverse health effects on beauty and salon workers, Congress should require manufacturers to research ingredients that do not have known data profiles consistent with the intended use for the cosmetic. Even more, this research should consider

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489. 21 U.S.C. § 374(a)(1); *See also* 21 U.S.C. § 364b(a) (“The Secretary shall by regulation establish good manufacturing practices for facilities that are consistent, to the extent practicable, and appropriate, with national and international standards, in accordance with section 361 of this title.”).

490. Boyd, *supra* note 10, at 304; *Inspections to Protect the Food Supply*, U.S. FOOD & DRUG ADMIN. (Mar 5, 2024) <https://www.fda.gov/food/compliance-enforcement-food/inspections-protect-food-supply> [https://perma.cc/7GMC-XWLQ] (“The FDA Food Safety Modernization Act mandates an inspection frequency of at least once every three years for domestic high-risk facilities and at least once every five years for non-high-risk facilities.”).

491. Boyd, *supra* note 10, at 305.

how the products are commonly used, not just the manufacturer's stated intended use. Finally, Congress should go further than the Safer Beauty Package and require, as compared to permitting, HHS to engage in or otherwise invest in community-based participatory research, including researchers and impacted persons from disproportionately impacted communities. This could have the benefit of bringing in additional qualitative and quantitative research from Black people who are disproportionately impacted by cosmetic harm.

Beyond approving better cosmetic products, HHS should also be funded to engage in a public health campaign covering toxins in hair care and other beauty products. Toxin exposure is a public health concern akin to other lifestyle choices that can lead to adverse health outcomes, yet the majority of the public remains unaware that the products they use regularly for years or even decades could lead to cancer, reproductive toxicity, or other serious harms. It is also important to educate the public because a product might be deemed safe, but a person's use of multiple products could lead to chemical exposure above a level considered safe.<sup>492</sup> Furthermore, it is equally important to provide the public with necessary information for individuals to own their health.

#### CONCLUSION

In 2006, neo-soul artist India Aire's debut song, "I Am Not My Hair," rose to the top of the charts.<sup>493</sup> In the song, Ms. Aire recounts a hair journey familiar to many Black women: "Little girl with the press and curl; Age eight I got a Jheri Curl; Thirteen then I got a relaxer, I was a source of so much laughter; Fifteen when it all broke off; Eighteen and then I went all natural . . . . Ninety-seven dreadlocks all gone; Looked in the mirror for the

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492. Wallack, *supra* note 71, at 334.

493. *The Shuffle: Revisiting India Aire's Timeless Classic 'I Am Not My Hair'*, THE NATIVE (June 25, 2020), <https://thenativemag.com/shuffle-india-aries-not-hair-timeless-classic-racial-disparities/> [https://perma.cc/GSF8-SSB5].

first time and saw that Hey, I am not my hair.”<sup>494</sup> Twenty years ago, this song was groundbreaking. This song was released as the new Natural Hair movement was coming into being, and it captures the essence of the movement: Black women should be free culturally, economically, and politically to make individual decisions about their hair.<sup>495</sup> Whether this is a natural style, such as locs or an Afro, a protective style such as braids, or a straightened hair style. Women do not have meaningful choices if the available hair care products are not safe.

The clean beauty movement has recognized the need for toxin-free cosmetics and the MAHA movement rhetorically, at least, has pushed for consumer products free from harmful chemicals. However, neither movement has been inclusive of Black women with the same goals. If MAHA and the clean beauty movements want to match their rhetoric with their law, policy, and political goals, these movements must consider racial and health equity. More importantly, those within the Natural Hair movement, and simply, Black women with natural hair, should recognize that the push for toxin free chemicals has largely excluded them, and buyers must continue to be aware about their hair care products. Concerned federal and state lawmakers must also be attuned to these differences to craft legislation beneficial to the health needs of all.

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494. India Arie, *I Am Not My Hair*, GENIUS (Jan. 1, 2005), <https://genius.com/Indiaarie-i-am-not-my-hair-lyrics> [<https://perma.cc/5AMR-Z8G8>].

495. See *The Shuffle*, *supra* note 492 (“India finds freedom and inner strength from society’s [glamorization] to state that she is not her hair or your expectations, but is her own person and as such demands access to the same opportunities.”).