

CONSULTARE INC. GROUP

Multi-Framework Compliance for *Face Powders*

MoCRA · Prop 65 · AB 2762 · AB 496 · AB 2771

Four converging laws. One inhalable powder. Talc, mica, TiO₂, heavy metals, PFAS.

LOOSE

PRESSED

EYE SHADOW

BLUSH

BRONZER

MINERAL

APRIL 2026



FACE
POWDERS

CORE RISK

INHALABLE

Powders aerosolize during application — the highest-exposure cosmetic format

Four Laws. Eighteen Months. One Category.

MoCRA

Cosmetic facility & product registration; first major federal cosmetics overhaul in 80+ years

AB 2762

24 ingredients banned in CA cosmetics — effective Jan 2025

AB 496

26 additional ingredients banned — formaldehyde-releasers, parabens, phthalates

AB 2771

PFAS in cosmetics banned — effective Jan 2025

Powders Aerosolize — Higher Exposure Than Any Other Format

Loose and pressed powders create breathable particle clouds. TiO₂, talc-borne asbestos, and heavy metals enter the inhalation pathway in a way creams and liquids do not. This is the format Prop 65 plaintiffs and OEHHA testers track most closely.

The J&J Talc Verdicts Reset the Liability Landscape

Multi-billion-dollar talc verdicts (mesothelioma, ovarian cancer) created a permanent plaintiff bar focus. Every face powder containing talc — and every brand using shared mineral suppliers — sits in that shadow. NOVs are routine.

Retailers Pre-Empt Regulators

Sephora Clean, Credo Clean, Target Clean, Whole Foods Premium Body Care delist faster than any agency can act. Retailer chemistry standards now exceed regulatory floors — meeting the law is no longer enough to keep shelf space.

What 'Face Powders' Actually Includes

Risk severity varies by format. Loose particle size, talc/mica content, and pigment system drive Prop 65 and MoCRA exposure differently across these subcategories.

<p>Loose Setting Powder VERY HIGH</p> <p>Translucent finishing, baking powders, HD setting</p> <p><i>Highest aerosolization risk. TiO² + talc + mica common.</i></p>	<p>Pressed Powder Foundation HIGH</p> <p>Compact foundation, dual-finish, mineral foundation</p> <p><i>Iron oxides + TiO² + talc/mica. Heavy-metal NOV target.</i></p>	<p>Blush & Bronzer HIGH</p> <p>Pressed and loose; matte and shimmer formats</p> <p><i>Carmine, iron oxides, ultramarines. Pigment heavy metals.</i></p>	<p>Eye Shadow & Brow Powder VERY HIGH</p> <p>Singles, palettes, baked, pressed, and loose</p> <p><i>Eye-area exposure + asbestos NOVs. Claire's, Justice cases.</i></p>
<p>Mineral Makeup HIGH</p> <p>Bare-mineral positioning, talc-free claims</p> <p><i>Mica + bismuth oxychloride; talc-free ≠ metal-free.</i></p>	<p>Highlighter & Finishing MOD</p> <p>Pearl, shimmer, illuminating powder formats</p> <p><i>Mica + TiO² coatings; child-labor mica overlay.</i></p>	<p>Contour & Sculpting MOD</p> <p>Pressed contour, banana powder, color-correct</p> <p><i>Same heavy-metal profile as foundation; less volume.</i></p>	<p>Color Correctors MOD</p> <p>Green, lavender, peach color-theory powders</p> <p><i>Specific D&C lakes; benzidine-contamination risk.</i></p>

Common thread: every format aerosolizes during application — making powders the highest-exposure cosmetic category for inhalable contaminants.

Six Frameworks Now Govern a Single Compact

MoCRA brought federal cosmetics regulation into the modern era. California layered four state laws on top. Retailers added their own.

MoCRA (Federal)

21 USC § 364–364h. Facility registration, product listing, adverse-event reporting, GMPs, fragrance-allergen labeling, mandatory recall authority.

California Prop 65

Cal. H&S Code § 25249.5 et seq.; 27 CCR 25600–25607.49. Asbestos, lead, TiO₂ (under PCPC injunction), carbon black, formaldehyde all listed.

AB 2762 — 24 Ingredients Banned

Effective Jan 2025. Mercury, formaldehyde, paraformaldehyde, methylene glycol, quaternium-15, mercury, dibutyl phthalate, isobutyl-paraben, isopropyl-paraben, and more.

AB 496 — 26 More Ingredients

Effective Jan 2027. Adds formaldehyde-releasers (DMDM hydantoin, imidazolidinyl urea), additional parabens, phthalates, and toluene. Sunsetting many legacy preservative systems.

AB 2771 — PFAS Ban

Effective Jan 2025. All intentionally-added PFAS prohibited in cosmetics. Long-wear powders, water-resistant formulas affected. Multi-state pattern (WA, NY, MN).

Retailer Clean Standards

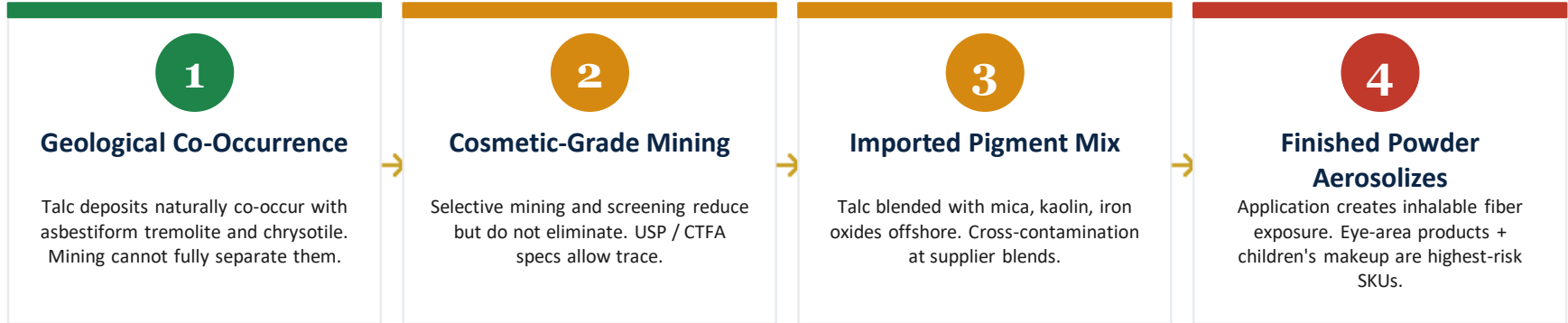
Sephora Clean+, Credo Clean Standard, Target Clean, Whole Foods Premium Body Care, Ulta Conscious Beauty. Restricted-Substance Lists exceed legal floors.

What's Actually in Play for Face Powders

Chemical / Class	Listing / Status	Source / Pathway	Severity
Asbestos (in talc)	Carcinogen (Prop 65)	Tremolite / chrysotile co-occur with talc deposits	VERY HIGH
Lead	Carcinogen + Repro (Prop 65)	Mineral pigments, mica, iron oxides, ultramarines	VERY HIGH
Cadmium	Carcinogen + Repro (Prop 65)	Yellow/orange pigments, zinc-based ingredients	HIGH
Titanium Dioxide	Carc. by inhalation — PCPC v. Bonta (Aug 2025) injunction	Whitening / opacifying agent in nearly all powders	PCPC ENJOINED
Carbon Black	Carc. by inhalation (Prop 65)	Dark pigment in eye shadows, eyeliners, brow powders	HIGH
Chromium VI	Carcinogen (Prop 65)	Possible contaminant in chromium oxide green pigments	MODERATE
Formaldehyde-releasers	AB 496 banned (eff. 2027) + Prop 65	DMDM hydantoin, imidazolidinyl urea preservatives	BANNING
Parabens (specific)	AB 2762 + AB 496 banned	Iso-/n-butylparaben, propylparaben in pressed powders	BANNED
Phthalates (DBP, DEHP)	AB 2762 banned + Prop 65	Plasticizers, fragrance carriers in pressed binders	BANNED
PFAS	AB 2771 banned (Jan 2025)	Long-wear, water-resistant, transfer-resistant powders	BANNED
Mercury	AB 2762 banned + Prop 65	Trace contaminant in some imported pigments	BANNED

 **FDA cosmetic-grade specs are tighter than food grade — but pigment imports remain the dominant NOV source. Reasoned-estimate analysis is required.**

Why Every Talc-Containing Powder Carries Geological Risk



LITIGATION REALITY

- J&J talc verdicts: \$8.9B+ aggregate settlements
- Claire's, Justice eye shadows: 2017–19 asbestos recalls
- FDA testing program: ongoing through 2026
- Plaintiff bar specifically tracks face-powder SKUs

DEFENSIVE OPTIONS

- Talc-free reformulation (mica, kaolin, silica)
- Cosmetic-grade USP talc + per-lot TEM/PLM testing
- Single-source mine documentation + supplier audit
- Reasoned-estimate file with QI sign-off (Prop 65 § 25821)

MoCRA — The Modernization of Cosmetics Regulation Act

FIRST MAJOR FEDERAL COSMETICS LAW SINCE 1938. NOT A COURTESY UPGRADE — A FULL MANDATE.

Effective Dec 2022; phased compliance through 2024–2025. FDA now has mandatory recall authority for the first time in cosmetics history.

What's Required

- Facility registration (every 2 years)
- Product listing (every product, every formula)
- Adverse event reporting (15-day SAEs)
- GMPs (FDA proposed rule pending)
- Fragrance allergen labeling
- Safety substantiation records

What Triggers Action

- Brand owner = 'responsible person' (not co-packer)
- Small-business exemption \$1M / 3-yr avg
- International sellers → US Agent required
- Talc rule: ASCA-method asbestos testing required
- Proposed PFAS regs in development
- FDA inspection authority expanded

What Compliance Looks Like

- FDA Cosmetics Direct portal active accounts
- Per-SKU listing data (formulation, label, claims)
- Annual safety dossier review
- GMP-aligned manufacturing records
- AE intake + triage SOP with 15-day workflow
- Recall plan with retention sample inventory

RISK MATRIX

Chemical Risk by Face-Powder Subcategory

FORMAT	Asbestos (talc)	Lead	Cadmium	TiO ²	Carbon Black	PFAS	Phthalates
Loose Setting Powder	VH	H	M	H	L	H	M
Pressed Powder Foundation	VH	H	H	H	L	H	H
Eye Shadow / Brow	VH	H	M	M	H	M	M
Blush	H	VH	H	M	L	M	M
Bronzer	H	H	H	M	M	M	M
Mineral Foundation	L	H	M	H	L	L	L
Highlighter / Finishing	M	H	M	H	L	M	L
Color Correctors	M	H	H	M	M	M	M

RISK LEVEL: ■ L Low ■ M Medium ■ H High ■ VH Very High

Pigment & Mineral Supplier Qualification

You can't formulate heavy metals out.

Iron oxides, ultramarines, micas, and talc are mined products. Their heavy-metal profile reflects mine geology — it cannot be removed by formulation or grinding.

Pigment and mineral qualification is the front line of defense. Single-source contracts, regional documentation, and per-lot ICP-MS data are the difference between a defensible Prop 65 file and an open-ended NOV exposure.

TIER 1 — LOW RISK

Sun Chemical, Sensient, BASF — Tier-1 cosmetic pigment houses with full COA chains

TIER 2 — MODERATE RISK

Mid-tier pigment blenders — require supplier audits and per-lot data

TIER 3 — ELEVATED RISK

Imported pigment blends from undocumented sources, generic mica, white-label talc

SUPPLIER QUALIFICATION FRAMEWORK

01 Mine-of-Origin Disclosure

Geographic source for talc, mica, iron oxides; geology / asbestos-co-occurrence risk

02 Cosmetic-Grade Specification

USP / CTFA / EU Cosing alignment; restricted-impurity limits in writing

03 Per-Lot COA — Heavy Metals

ICP-MS for Pb, Cd, As, Hg, Sb, Ni — per pigment lot, not per shipment

04 Talc-Asbestos Testing

TEM + PLM (ASCA method); per-lot for any talc-containing pigment

05 Restricted-Substance Letter

Supplier attests AB 2762 / AB 496 / AB 2771 / Prop 65 compliance per lot

06 Supplier Audit & Exit

On-site or remote audit; predefined exit criteria for non-conforming lots

PRIMARY LEVER #2

Analytical Testing Stack

Finished-product testing — not pigment-only — is the legally relevant determination. Plaintiffs and OEHHA test what's in the compact, not what entered the press.

Analyte / Concern	Method	Standard / Reference	Lab Capability	Frequency
Lead, Cadmium, As, Hg, Sb, Ni, Co	ICP-MS / ICP-OES	USP <232>/<233>; ASTM D7728	ISO 17025 / A2LA	Per finished lot
Asbestos in talc	TEM + PLM (ASCA)	FDA ASCA; ISO 22262	FDA-recognized lab	Per talc lot — mandatory
Chromium VI	Speciated IC-ICP-MS	ISO 16711; EPA 218.7	Specialty lab	Annual + green-pigment SKUs
PFAS (multi-analyte)	LC-MS/MS, TOP assay	EPA 533 / 537.1 (adapted); ISO 21675	PFAS specialist	Annual + supplier change
Phthalates	GC-MS	EU CPR Annex II; FDA migration	ISO 17025	Per fragrance / binder change
Formaldehyde + releasers	HPLC w/ DNPH derivat.	ISO 27668; FDA 21 CFR migration	ISO 17025	Per preservative system
Particle-size aerosolization	Cascade impactor	ISO 13320; OECD 110	Aerosol specialist	Per new product / process

ASCA-method asbestos testing on talc is now a MoCRA expectation, not a recommendation. ISO 17025 + FDA-recognized labs only.

Reformulation & Process Controls

Talc-Free Conversion

BEFORE

Cosmetic-grade talc with detected tremolite trace

AFTER

Mica + kaolin + sericite blend; silica for slip; rice-starch for matte

Asbestos risk eliminated

PFAS-Free Long-Wear

BEFORE

Fluoropolymer coatings on iron oxides for water resistance

AFTER

Plant-derived siloxane esters + silica polymer encapsulation

AB 2771 compliant

Mica Source Audit

BEFORE

Generic mica (mixed-origin, opaque supply chain)

AFTER

Synthetic fluorphlogopite or RMI-certified Indian mica with traceability

Pb ↓ + child-labor risk ↓

Preservative System

BEFORE

DMDM hydantoin / paraben blend in pressed binder

AFTER

Phenoxyethanol + ethylhexylglycerin; capric/caprylic blends

AB 496 + AB 2762 cleared

Pigment Diversification

BEFORE

Single-source iron oxides from one mining region

AFTER

Multi-source supply with per-lot ICP-MS gating; high-Pb lots diverted

Pb / Cd reduction 30–60%

Particle-Size Engineering

BEFORE

Standard 5–10 µm particle size (high aerosolization)

AFTER

Coated, agglomerated >20 µm particles; low-fly formulations

Inhalation exposure ↓

Building a Defensible Compliance File

If a Prop 65 NOV arrives, you have 60 days to respond. The defense is built before the notice — not after.

REQUIRED ARTIFACT FILE

- Product Identification & Formulation Summary
- Bill of Materials with chemical screen per ingredient
- Pigment / mineral supplier qualification records
- Finished-product test data — ≥ 12 months, by lot
- ASCA-method asbestos test data (talc-containing SKUs)
- Method validation files for each analyte
- Lab accreditation certificates (ISO 17025, FDA-recognized)
- Reasoned-estimate exposure assessment (27 CCR § 25821)
- Safe-harbor MADL/NSRL comparison + margin banding
- Naturally-occurring defense file (§ 25501) where applicable
- MoCRA facility + product listing receipts
- QI approval signatures + 5-year retention notice

THE NO-WARNING DETERMINATION

Three-prong defense structure:

1

Below MADL / NSRL

Reasoned-estimate exposure analysis demonstrates daily intake at typical-use serving falls below safe-harbor for each listed chemical.

2

Naturally Occurring

For metals demonstrably from mined geology and not manufacturing-introduced, 27 CCR § 25501 provides an affirmative defense with source documentation.

3

Margin of Compliance

Banding framework (Green / Yellow / Red) demonstrates ongoing monitoring with documented action thresholds well below legal limits.

Controls That Earn Credit Across Schemes

One control system, demonstrated across all five regimes. Build once, prove everywhere.

Control	Prop 65	MoCRA	AB 2762/496	AB 2771 PFAS	Retailer Clean	EU CPR
Heavy-metal screening (Pb/Cd/As/Hg/Sb/Ni)	✓	✓	✓	—	✓	✓
ASCA asbestos testing (talc SKUs)	✓	✓	—	—	✓	✓
Pigment / mineral supplier qualification	✓	✓	✓	✓	✓	✓
Restricted Substance List management	◐	◐	✓	✓	✓	✓
PFAS exclusion + supplier attestation	◐	—	—	✓	✓	✓
Reasoned-estimate exposure assessment	✓	—	—	—	—	◐
Facility + product listing	—	✓	—	—	—	✓
Adverse-event intake (15-day SAE)	—	✓	—	—	◐	✓
Safety substantiation dossier	◐	✓	—	—	✓	✓
Recall / withdrawal procedure	✓	✓	—	—	✓	✓
5-year record retention	✓	✓	✓	✓	✓	✓

✓ Fully addressed ◐ Partially addressed — Not in scope

Twelve-Month Implementation Plan

MONTHS 1–2

Diagnostic & Triage

- SKU-level Prop 65 / MoCRA / state risk screen
- Existing test-data inventory; gap analysis
- Pigment / talc / mica sourcing audit
- California sales channel exposure assessment

MONTHS 3–5

Build the File

- Stand up finished-product testing program (lab onboarding, SOPs)
- Reasoned-estimate exposure assessment per SKU
- Naturally-occurring defense file where supportable
- MoCRA facility + product listings; AE intake SOP

MONTHS 6–8

Reformulate & Source

- Talc-free conversions for highest-risk SKUs
- PFAS-free long-wear reformulation (AB 2771)
- Preservative system updates (AB 2762 / 496)
- Pigment supplier re-qualification + exit criteria

MONTHS 9–12

Operationalize

- Lot-level COA gating live; non-conforming lots diverted from CA
- QI approval and signature of full artifact file
- Annual program review SOP; cross-framework demo package
- Training rollout to QA, formulation, procurement, regulatory teams

Risk by Sales Channel — Same Powder, Different Exposures

The same face powder faces dramatically different Prop 65, MoCRA, and retailer-clean exposure depending on where it's sold. Channel strategy is risk strategy.

<p>EXTREME</p>	<p>Sephora / Ulta / Credo Prestige Channel Retailer Clean lists exceed regulatory floors · Single ingredient violation = full-line delisting · Premium price = plaintiff-attractive economics <i>Examples: Sephora Clean+ assortment, Credo-stocked indie brands, Ulta Conscious Beauty</i></p>
<p>VERY HIGH</p>	<p>Direct-to-Consumer & Influencer Brands Direct California sales = jurisdiction nexus · Influencer testimonials create discovery · Indie brand compliance maturity often low <i>Examples: Standalone DTC brands, TikTok-driven launches, social-commerce-first brands</i></p>
<p>HIGH</p>	<p>Mass-Market / Drugstore (Target, Walmart, CVS) Target Clean / private-label exposure · Volume drives plaintiff attention · Children's-makeup risk multiplier (Justice / Claire's parallel) <i>Examples: Drugstore-tier face powders, mass-market mineral makeup, kids' / tween cosmetics</i></p>
<p>MODERATE</p>	<p>Professional / Salon Channel AB 2761 ingredient disclosure for professional cosmetics · Hairstylist + makeup artist exposure (occupational route) · Smaller California footprint <i>Examples: Pro setting powders, makeup-artist palettes, B2B-only formats</i></p>
<p>LOW – MOD</p>	<p>Export / Non-California Domestic Prop 65 + state laws are CA-specific · EU CPR has tighter limits in some cases (Annex II/III) · Other states tracking CA pattern <i>Examples: Asia/Mexico/Middle East export, non-CA domestic boutique brands</i></p>

COST OF INACTION

What an NOV Costs — and Why Insurance Won't Cover It

\$2,500

Per-day, per-violation civil penalty under Prop 65

\$25K–500K

Typical settlement range for cosmetic-talc and pigment NOVs

60 DAYS

Window to respond to a 60-Day Notice — the file is built before this

25%

Of settlement payments go to the plaintiff's attorneys' fees, by statute

\$8.9B+

Aggregate J&J talc-cancer settlements — the precedent the plaintiff bar tracks

0%

Of standard product liability insurance covers Prop 65 — most policies expressly exclude it

The structural insight: Prop 65 isn't a regulatory program — it's a private-attorney-general statute. Plaintiffs' lawyers ARE the enforcement mechanism. And the cosmetics category is on their list.

HOW WE HELP

The Consultare Engagement Model for Face Powders



Diagnostic Assessment

SKU-level multi-framework risk screen against actual sales channels and product specs. Deliverable: prioritized risk register with action thresholds.



Pigment & Mineral Sourcing

Build the upstream defense — supplier audits, mine-of-origin documentation, qualification SOPs, and exit criteria for non-conforming pigments.



Analytical Program Build

Lab onboarding, ASCA-method validation, sampling plan design, COA gating workflows, and technical liaison with ISO 17025 / FDA-recognized labs.



Documentation & Defense File

Produce the 12-element artifact file: exposure assessment, naturally-occurring defense, MoC framework, QI approval — built to withstand a 60-day notice.



MoCRA Infrastructure

Stand up FDA Cosmetics Direct registration, product listings, AE intake SOP with 15-day workflow, and recall plan with retention sample inventory.



Reformulation & Channel Strategy

Identify the right combination of process changes, sourcing shifts, and channel segmentation to minimize CA exposure while preserving brand economics.

Why Face Powders Sit in a Distinct Category

Four converging factors make this category structurally different from adjacent cosmetic segments:

01

Inhalable Particle Format

Powder application aerosolizes the product. TiO₂, talc-borne asbestos, and heavy metals enter the inhalation pathway in a way no other cosmetic format does. This isn't a labeling exercise — it's a fundamental exposure-route distinction.

02

Four New Laws in Eighteen Months

MoCRA (federal, 2022–2025), AB 2762 (eff. 2025), AB 2771 (eff. 2025), AB 496 (eff. 2027). The cosmetic regulatory architecture has changed more in 18 months than in the previous 80 years. Brands without a coordinated compliance program are now structurally non-compliant.

03

Mature, Active Plaintiff Bar

Cosmetics is one of the most-targeted Prop 65 categories of the last decade. J&J talc verdicts (\$8.9B+) created a permanent attorney bench focused on this category. Claire's, Justice, Sephora private-label cases established case law. The flywheel is not slowing.

04

Retailer Standards Exceed the Law

Sephora Clean+, Credo, Target Clean, Whole Foods Premium Body Care, Ulta Conscious Beauty. Restricted-Substance Lists from major retailers exceed regulatory floors. Compliance with the law is necessary but not sufficient — retailer testing programs delist faster than agencies act.

NEXT STEPS

Building Your Multi-Framework

Compliance Defense for Face Powders

01 Diagnostic Call (60 min)

SKU portfolio review, channel-mix analysis, and exposure sizing — no obligation, no cost.

02 Risk-Register Sprint (2 weeks)

Prioritized SKU-level risk register with action thresholds. Suitable for board / leadership presentation.

03 Defense-File Build (12 mo.)

Complete 12-element artifact file with QI approval. Ready for plaintiff response, retailer audit, or MoCRA inspection.

04 Annual Program Management

Ongoing testing oversight, supplier requalification, and disclosure maintenance with cross-framework leverage.

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FOOD SAFETY · QUALITY · REGULATORY COMPLIANCE

MoCRA · PROP 65 · AB 2762 · AB 496 · AB 2771

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