

The Fragrance Industry: Policy Failures and the Trade Secret Myth

FACT SHEET: Fragrance Safety

The safety of fragrance chemicals is not determined, monitored or safe-guarded by any governmental agency globally in any comprehensive fashion. Instead, the fragrance industry has been trusted to self-regulate and to establish its own safety guidelines for the use of fragrance chemicals. The current system for fragrance safety is run entirely by the International Fragrance Association (IFRA) and their research arm, the Research Institute for Fragrance Materials (RIFM).

How do RIFM and IFRA determine safety?

Most of the basic science studies on fragrance ingredients are conducted by the manufacturers themselves and have never been published in peer-reviewed scientific journals. There is no independent review of laboratory practices, appropriate controls, levels of significance, or any of the hallmarks of authoritative science to ensure that the results of these studies have not been manipulated to serve the interests of the manufacturer conducting the testing.

The RIFM Expert Panel (REXPAN) has reviewed and published their findings on a relatively select group of chemicals. There is a noticeable omission of expert panel reviews of any fragrance chemicals which are controversial due to their potential toxicity, including phthalates, synthetic musks, styrene, methyl eugenol, and others. RIFM has either chosen not to request an expert review of the fragrance chemicals of greatest known concern, or if done, their reviews were never made public.

According to the industry, IFRA Standards are a “globally accepted and recognized risk management system” that ensure the safety of fragrance ingredients and are part of the IFRA Code of Practice. In addition, the standards includes 186 banned or restricted substances that are not allowed in fragrance products.”

However, there are no IFRA standards in place restricting or banning many of the most controversial fragrance ingredients of concern. There are no restrictions in place for the use of the following:

1. Known carcinogens: styrene, pyridine, or benzophenone
2. Phthalates, of any kind
3. Synthetic musks, including Galaxolide or Tonalide.

Furthermore, none of these chemicals appear to have been recently assessed for safety by the REXPAN.

IFRA standards are voluntary. IFRA member companies must comply with IFRA standards to maintain their membership, but compliance with the standards is almost never verified. Fragrance manufacturers must provide an IFRA Conformity Certificate to their customers to assure them that the standards are being met for any fragrance product they sell. The IFRA certificate is usually a single piece of paper which simply states that the fragrance compound is in compliance.ⁱ No third-party verification, or even in house testing results are required to be included or referred to in the Certificate.

A Tradition of Keeping Trade Secrets

Labeling products with fragrance components merely as “fragrance” is a holdover from the fragrance industry’s long held tradition of keeping trade secrets for fragrance formulas. They have historically kept these secrets close-to-the-chest, claiming the formulas to be the lifeblood of their industry. The fragrance industry claims that because of the intellectual effort used to create fragrance compositions, trade secrets are necessary to protect intellectual property. As a result of this claim, numerous consumer product regulations, globally, have specifically exempted fragrance from ingredient disclosure requirements.

However, a simple list of ingredients (without the actual formula or percentage amounts) found in a fragrance no longer meets the definition of a “trade secret”. The Uniform Trade Secrets Act (“UTSA”) defines a trade secret as:

Information, including a formula, pattern, compilation, program, device, method, technique, or process, that derives independent economic value, actual or potential, from not being generally known to or readily ascertainable through appropriate means by other persons who might obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.ⁱⁱ

The reality of reverse engineering

The innovations in reverse engineering technology in recent decades make it possible to create a list of ingredients (and in fact to quantify this list) with incredible precision. Many manufacturers have the technology in-house to analyze their competitor's products in order to better understand, imitate or improve upon their scents. This fails to meet the definition of "trade secret" because a list of a fragrance's ingredients is currently "readily ascertainable through appropriate means by other persons who might obtain economic value from its disclosure or use."

Chemicals of Concern in Fragrance:

There are more than 3,000 chemicals on IFRA's Transparency List of chemicals used in the industry. To date, there is no single comprehensive published review of the hazards posed by many of the chemicals on this list. Some of these fragrance chemicals can be found on authoritative lists of toxic chemicals around the world including:

- California Proposition 65
- National Toxicology Program Report on Carcinogens
- International Agency for Research on Cancer
- EU Annex ii: Chemicals prohibited from cosmetics in the European Union
- Canadian Hotlist-Chemicals prohibited/restricted from cosmetics
- EU Chemicals of Very High Concern
- ChemSec SIN (Substitute It Now!) List

Only a handful of IFRA standards exist for any of the fragrance chemicals found on these lists and because of the lack of transparency, it is unclear if any of them have been recently reviewed by the Expert Panel. These chemicals have been prioritized by numerous governmental bodies – yet these same chemicals do not appear to be prioritized by the IFRA/RIFM safety program.

Solutions

There are several things that need to happen to help ensure the safety of fragrance ingredients:

- Federal and state legislation is needed that requires product-specific disclosure of fragrance ingredients.
- Federal and state legislation is needed that requires fragrance to meet an unbiased standard of safety. Senators Feinstein (D-CA) and Susan Collins (R-ME) recently introduced the Personal Care Product Safety Act (S.1014) that seeks to more stringently regulate ingredients in cosmetics. Unfortunately the bill continues to exclude fragrance from disclosure and meeting any real bar of safety.
- Manufacturers should voluntarily disclose fragrance ingredients on a product-specific basis. Some manufacturers like SC Johnson & Son, RB, and Clorox have already begun to disclose more fragrance ingredients in cleaning products.
- Manufacturers should develop and make public a comprehensive toxic chemical screening process that details how they ensure the safety of their products, including their fragranced products.

For a more in-depth explanation of how the fragrance industry operates see the full paper:

Unpacking the Fragrance Industry: Policy Failures, the Trade Secret Myth, and Public Health.

www.womensvoices.org/report-unpacking-the-fragrance-industry/

To discuss, please contact Jamie McConnell, director of programs and policy at jamiem@womensvoices.org or 406-543-3747.

ⁱ http://www.ifraorg.org/en-us/frequently-asked-questions#_VfHek5c0NKU
ⁱⁱ https://www.law.cornell.edu/wex/trade_secret

