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## Use of potentially harmful chemicals kept secret under law

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Of the 84,000 chemicals in commercial use in the United States -- from flame retardants in furniture to household cleaners -- nearly 20 percent are secret, according to the Environmental Protection Agency, their names and physical properties guarded from consumers and virtually all public officials under a little-known federal provision.

The policy was designed 33 years ago to protect trade secrets in a highly competitive industry. But critics -- including the Obama administration -- say the secrecy has grown out of control, making it impossible for regulators to control potential dangers or for consumers to know which toxic substances they might be exposed to.

At a time of increasing public demand for more information about chemical exposure, pressure is building on lawmakers to make it more difficult for manufacturers to cloak their products in secrecy. Congress is set to rewrite chemical regulations this year for the first time in a generation.

Under the 1976 Toxic Substances Control Act, manufacturers must report to the federal government new chemicals they intend to market. But the law exempts from public disclosure any information that could harm their bottom line.

Government officials, scientists and environmental groups say that manufacturers have exploited weaknesses in the law to claim secrecy for an ever-increasing number of chemicals. In the past several years, 95 percent of the notices for new chemicals sent to the government requested some secrecy, according to the [Government Accountability Office](#). About 700 chemicals are introduced annually.

Some companies have successfully argued that the federal government should not only keep the names of their chemicals secret but also hide from public view the identities and addresses of the manufacturers.

"Even acknowledging what chemical is used or what is made at what facility could convey important information to competitors, and they can start to put the pieces together," said Mike Walls, vice president of the American Chemistry Council.

Although a number of the roughly 17,000 secret chemicals may be harmless, manufacturers have reported in mandatory notices to the government that many pose a "substantial risk" to public health or the environment. In March, for example, more than half of the 65 "substantial risk" reports filed with the Environmental Protection Agency involved secret chemicals.

"You have thousands of chemicals that potentially present risks to health and the environment," said Richard Wiles, senior vice president of the Environmental Working Group, an advocacy organization that documented the extent of the secret chemicals through public-records requests from the EPA. "It's impossible to run an effective regulatory program when so many of these chemicals are secret."

Of the secret chemicals, 151 are made in quantities of more than 1 million tons a year and 10 are used specifically in children's products, according to the EPA.

The identities of the chemicals are known to a handful of EPA employees who are legally barred from sharing that information with other federal officials, state health and environmental regulators, foreign governments, emergency responders and the public.

Last year, a Colorado nurse fell seriously ill after treating a worker involved at a chemical spill at a gas-drilling site. The man, who later recovered, appeared at a Durango hospital complaining of dizziness and nausea. His work boots were damp; he reeked of chemicals, the nurse said.

Two days later, the nurse, Cathy Behr, was fighting for her life. Her liver was failing and her lungs were filling with fluid. Behr said her doctors diagnosed chemical poisoning and called the manufacturer, Weatherford International, to find out what she might have been exposed to.

Weatherford provided safety information, including hazards, for the chemical, known as ZetaFlow. But because ZetaFlow has confidential status, the information did not include all of its ingredients.

Mark Stanley, group vice president for Weatherford's pumping and chemical services, said in a statement that the company made public all the information legally required.

"It is always in our company's best interest to provide information to the best of our ability," he said.

Behr said the full ingredient list should be released. "I'd really like to know what went wrong," said Behr, 57, who recovered but said she still has respiratory problems. "As citizens in a democracy, we ought to know what's happening around us."

The White House and environmental groups want Congress to force manufacturers to prove that a substance should be kept confidential. They also want federal officials to be able to share confidential information with state regulators and health officials, who carry out much of the EPA's work across the country.

Walls, of the American Chemistry Council, says manufacturers agree that federal officials should be able to share information with state regulators. Industry is also willing to discuss shifting the burden of proof for secrecy claims to the chemical makers, he said. The EPA must allow a claim unless it can prove within 90 days that disclosure would not harm business.

Meanwhile, the Obama administration is trying to reduce secrecy.

A week after he arrived at the agency in July, Steve Owens, assistant administrator for the EPA's Office of Prevention, Pesticides and Toxic Substances, ended confidentiality protection for 530 chemicals. In those cases, manufacturers had claimed secrecy for chemicals they had promoted by name on their Web sites or detailed in trade journals.

"People who were submitting information to the EPA saw that you can claim that virtually anything is confidential and get away with it," Owens said.

The handful of EPA officials privy to the identity of the chemicals do not have other information that could help them assess the risk, said Lynn Goldman, a former EPA official and a pediatrician and epidemiologist at the Johns Hopkins Bloomberg School of Public Health.

"Maybe they don't know there's been a water quality problem in New Jersey where the plant is located, or that the workers in the plant have had health problems," she said. "It just makes sense that the more people who are looking at it, they're better able to put one and one together and recognize problems."

Independent researchers, who often provide data to policymakers and regulators, also have been unable to study the secret chemicals.

Duke University chemist Heather Stapleton, who researches flame retardants, tried for months to identify a substance she had found in dust samples taken from homes in Boston.

Then, while attending a scientific conference, she happened to see the structure of a chemical she recognized as her mystery compound.

The substance is a chemical in "Firemaster 550," a product made by Chemtura Corp. for use in furniture and other products as a substitute for a flame retardant the company had quit making in 2004 because of health concerns.

Stapleton found that Firemaster 550 contains an ingredient similar in structure to a chemical -- Di(2-ethylhexyl) phthalate, or DEHP -- that Congress banned last year from children's products because it has been linked to reproductive problems and other health effects.

Chemtura, which claimed confidentiality for Firemaster 550, supplied the EPA with standard toxicity studies. The EPA has asked for additional data, which it is studying.

"My concern is we're using chemicals and we have no idea what the long-term effects might be or whether or not they're harmful," said Susan Klosterhaus, an environmental scientist at the San Francisco Estuary Institute who has published a journal article on the substance with Stapleton.

Chemtura officials said in a written statement that even though Firemaster 550 contains an ingredient structurally similar to DEHP does not mean it poses similar health risks.

They said the company strongly supports keeping sensitive business information out of public view. "This is essential for ensuring the long-term competitiveness of U.S. industry," the officials said in the

statement.

*Staff researcher Madonna Lebling contributed to this report.*

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